



**NGEC**  
National Gender and  
Equality Commission

# THE MILESTONES

EQUALITY AND  
INCLUSION IN  
THE 2017 KENYAN  
GENERAL  
ELECTION





Published by

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## LIST OF ABBREVIATIONS

ANC	Amani National Congress
CCM	Chama Cha Mashinani
CMD	Chama Mwangaza Daima
CWMNA	County Woman Member of National Assembly
DPP	Director of Public Prosecutions
EACC	Ethics and Anti-Corruption Commission
FORD	Forum for the Restoration of Democracy
IDR	Internal Dispute Resolution
IEBC	Independent Electoral and Boundaries Commission
KANU	Kenya African National Union
KNCHR	Kenya National Commission of Human Rights
LPK	Labour Party of Kenya
MCA	Member of County Assembly
MCCP	Maendeleo Chap Chap Party
MNA	Member of the National Assembly
MP	Member of Parliament
NARC-K	National Alliance Rainbow Coalition-Kenya
NASA	National Super Alliance
NCIC	National Cohesion and Integration Commission
NCPWD	National Council for Persons with Disabilities
NGEC	National Gender and Equality Commission
NRB	National Registration Bureau
ODM	Orange Democratic Movement
ORPP	Office of the Registrar of Political Parties
PPA	Political Parties Act
PPDT	Political Parties Dispute Tribunal
PWDs	Persons with Disabilities
SIGs	Special Interest Groups
UDP	United Democratic Party
WDM-K	Wiper Democratic Movement-Kenya

## FOREWORD

On behalf of the National Gender and Equality Commission (NGEC), I am glad to present the observation and monitoring report of the August 8, 2017 General Election. The monitoring exercise was undertaken in the context of the Commission's mandate to promote gender equality and freedom from discrimination among all Kenyans, with keen focus on special interest groups that include women, youth, children, persons with disabilities and older persons as well as minority and marginalised groups and communities.

In the 2015-2016 financial year, the Commission conducted an audit on the status of equality and inclusion in Kenya, which revealed wide disparities in political participation across most categories of the population, especially among PWDs, women and youth. This finding was disturbing in light of the constitutional provision in Article 27 on equality and non-discrimination principles. Consequently, the Commission was concerned about enhancing the participation of special interest groups, particularly women and youth in elections, as managers, candidates or voters, within political parties, and during the General Election stage. This would secure their inclusion in decision-making processes in the country.

The preparation for the 2017 election monitoring exercise entailed extensive consultations among NGEC commissioners, the secretariat and sector stakeholders including the Independent Electoral and Boundaries Commission, human rights institutions as well as several national and international election observer groups. This engagement was critical for developing consensus on key elements that constitute an inclusive election observation process. The resultant observation and monitoring tools covered campaign monitoring and financing, voter registration verification as well as poll and post-polling monitoring.

This report on election monitoring and observation has exclusive focus on the election-related circumstances of the special interest groups, particularly women, youth and people with disabilities. It reveals issues of equality and inclusion endeavouring to ensure special interest groups enjoy their constitutionally guaranteed rights to democratic participation. The report will guide NGEC and other stakeholders on the areas that need attention to enable special interest groups experience equality and inclusion.

While such attention is necessary at all points in the electoral cycle, it is worth highlighting the need for political parties to pay greater attention to the opportunities for special interest groups' inclusion provided by the Constitution and broader electoral management framework. Ultimately, much will be achieved if society at large develops a positive attitude towards issues of equality and inclusion for special interest groups.

Thank You,



**Dr. Joyce Mwikali Mutinda (PhD)**

**Chairperson**

## ACKNOWLEDGEMENTS

The National Gender and Equality Commission would like to appreciate all stakeholders who ensured that the 2017 election observation exercise was successful.

We sincerely appreciate, in particular, the Oslo Centre, Office of the Registrar of Political Parties, National Cohesion and Integration Commission, Article 59 Commissions, Election Observation Group and Kenya National Bureau of Statistics. These are stakeholders who worked tirelessly to review and update the 2013 General Election observation model, to arrive at a 2017 model that meets NGECC's mandate and functions while also conforming with the country's electoral frameworks. We also acknowledge contributions of other stakeholders in the operationalisation of the observation and monitoring exercise among other activities resulting in this report.

Within the Commission, we appreciate the commissioners who include current Acting Chairperson Dr. Florence Wachira, Dr. Gumato Ukur, former Chairperson Winfred Lichuma and Vice Chairperson Simon Ndubai for providing policy and strategic leadership in ensuring success during the observation of the 2017 General Election.

Equally, the Commission is indebted to former Acting Commission Secretary Mr. Paul Kuria for ensuring smooth operations at the Secretariat through technical support, supervision and engagement of a professional team during the exercise. Under their guidance, the Commission Secretariat played a crucial role in the provision of timely coordination and support to the various monitors from all 47 counties.

The Commission lauds the temporary monitoring team largely composed of women and youth who guaranteed a successful engagement of stakeholders.

We applaud all relevant institutions and partners who participated in the electoral processes and monitoring including aspirants and political parties. We are grateful to Dr. Otieno Nyanjom for his role in compiling this report.

Above all we acknowledge the financial and technical resources from UN Women, without which this study would not have been possible. The UN Women funds were provided under the Strengthening Electoral Processes in Kenya (SEPK) project which was implemented by UNDP, UN Women and the Office of the United Nations High Commissioner for Human Rights (UNOHCHR).

Many thanks to the Government of Kenya, Coffey International Development in the Jamii Thabiti Project and other development partners for the financial and technical support towards the election observation exercise.



**Sora Katelo**

**Acting Commission Secretary/Chief Executive Officer**

# EXECUTIVE SUMMARY

**T**he National Gender and Equality Commission is a Constitutional Commission set up pursuant to Article 59 (4) and (5) of the Constitution of Kenya and the National Gender and Equality Commission Act 2011.

The overall mandate of the Commission is to promote gender equality and freedom from discrimination among all people in Kenya, as provided by Article 27, with special attention to special interest groups (SIGs), that constitute women, children, youth, people with disabilities and the elderly as well as minority and marginalised communities.

The Commission seeks to entrench the principles of equality and inclusion in all administrative laws, rules and regulations in the national and county development agenda as well as in the private sector.

The key functions of the Commission revolve around coordination, facilitation, monitoring, auditing and advising agencies and individuals on mechanisms for substantive equity and inclusion.

The Commission also gives advisories on development of affirmative action implementation and policies as contemplated in the Constitution.

It is against this background that the Commission monitored the August 8, 2017 General Election, with the main aim of observing the extent to which the election processes adhered to the principles of equality and inclusion with respect to special interest groups.

The election observation and monitoring exercise was guided by four key objectives:

1. To observe participation of special interest groups in the 2017 electoral process
2. To assess the extent to which the election process adhered to constitutional and other legal provisions (as they relate to Kenyans generally and special interest groups in particular)
3. To monitor the political party campaigns and document the extent of integration of the principles of equality and inclusion of special interest groups in the electoral processes.

The election coverage focused on four (4) key thematic areas: campaign monitoring and voter registration, poll monitoring, post-polling monitoring, and campaign financing. These areas were monitored using incident reporting tools.

The mixed methods approach was used in the election observation and monitor-

ing exercise involving observation and monitoring activities of election actors including electoral officials, candidates and their agents, prospective and actual voters, security agents and media. The approach involved key informant interviews as well as structured and semi-structured tools which inquired into the conduct of political party primaries, meetings and rallies, voter verification exercise, campaigns, polling and post-polling phases.

Key findings show that:

- Though the 2016 amendments to the Political Parties Act (PPA) heightened concerns over the participation of special interest groups in party and national politics, political parties largely failed to realise the new provisions.
- While all political parties had election and nomination rules as required by Section 27 (1) of the Elections Act 2011, and duly submitted the same to the Office of the Registrar of Political Parties (ORPP), access for citizens to party constitutions and other instruments was limited.
- All political parties charged candidate fees, with some variations across selected seats for different special interest groups categories, with the highest fee being KShs1 million for presidential candidates.
- Parties largely did not submit lists of office bearers to ORPP, thereby conducting the party primaries under *ad hoc* officials, contrary to the 2017 PPA Regulations.
- Political parties established internal dispute resolution (IDR) mechanisms as required by section 27 (1). However, the IDR process was expensive thus excluding the special interest groups to party justice system.
- Majority of the special interest group candidates were reluctant to discuss campaign budgets and finance sources although some were supported by community-based and local non-governmental organisations.
- In campaign rallies observed by NGEC monitors, women and youth were the majority; there was a modest presence of PWDs as well as minority and marginalised groups.
- Dominant campaign venues seen by the monitors were market places, public open grounds and road shows. These were all captured in an election observation and monitoring toolkit 2, with respective shares of the totals monitored at percentages of 36.5, 26.9 and 15.8 – accounting for nearly 80 percent of all the venues.
- Dominant themes in the rallies were development (34.9%), repeated calls for peace (21.9%) and civic education on voting preparedness (18%).

- Identification of voters was listed among problems encountered by older persons and flagged by 43.6 percent of the observers as a problem.
- Poll officials confirmed to the candidates' agents that the ballot boxes were empty at the beginning of the voting exercise, as indicated by 92.5 percent of the observers.
- Among the observers, 4.2 percent witnessed 42 election violence cases reported with instigators being mainly the youth, PWDs, and security officers.
- A comparatively modest 5.7 percent of the observers reported witnessing violence, the greatest instigators of nearly half of the violence reported being 'campaign attendees-youth' (47.8%), as distinct from that instigated by 'youth candidates' (10.9%).
- Violence targeting women was mostly in Bomet and Kiambu counties, and an incident each in Busia, Homa Bay, Kisumu and Migori counties. Bomet accounted for four violence instances reported targeting the youth; and the county accounted for over half of all the 27 incidents reported.

The report recommends the following:

- Special interest groups and political parties need to take advantage of the software provided by ORPP, to improve their records of membership by disaggregating categories to enable analysis of the status of SIGs.
- Political parties should review their constitutions, election rules and institutions to ensure compliance with emerging electoral policies and legislation. The involvement of agencies such as the National Council for Persons with Disabilities and Kenya National Commission on Human Rights in this review is important for standards.
- Political parties should review their fees and related requirements to reflect the means of the various groups in society that might be interested in using them as a vehicle to democratic participation.
- Independent Electoral and Boundaries Commission (IEBC) should consider involving other stakeholders to deliver civic and voter education to enhance electoral processes.
- Further, IEBC should engage other stakeholders in championing an efficient nationwide issuance of national identity cards continuously.

- Legislation on electoral campaign financing was temporarily suspended by a ruling of the High Court in early 2017. To this end, the Attorney General should liaise with Office of Registrar of Political Parties and IEBC to revisit the suspended legislation of electoral campaign financing and ensure it is enforced. This should lead to effective monitoring of candidates' financing levels.
- With effective financing frameworks in place, the Office of Registrar of Political Parties should be in a position to monitor the extent to which parties use their share of the Political Parties Fund to support SIGs in politics.
- The calendar for campaigns by political parties and candidates should be released early enough to allow special interest groups to better prepare their activities around the same calendar. This will enable local authorities, media, security providers and other institutions like the National Cohesion and Integration Commission to plan accordingly.
- Enforcement agencies including the Office of Registrar of Political Parties, IEBC, Director of Public Prosecutions (DPP), and other related agencies should pay attention to violations of electoral rules and regulations to enhance the diligent adherence to election framework.
- Ensure availability of facilities that will enable SIGs' participation, such as translators for minorities, sign language interpreters and local language publicity materials, among others. A variety of aids, direction signs or assistants should be availed on time to enable SIGs vote smoothly.
- Adequate security should be provided for everyone.
- Ensure recruitment opportunities for women, youth, PWDs, minorities and marginalised groups as election managers and officials including within political parties.
- IEBC to ensure physical and non-physical elements of polling stations and tallying centres are availed on time including aspects of accessibility, space, comfort (queues and waiting time), demarcation and security.

# CHAPTER ONE

## 1.0 Introduction

**T**he National Gender and Equality Commission (NGEC) is a Constitutional Commission set up pursuant to Article 59 (4) and (5) of the Constitution of Kenya 2010, and the National Gender and Equality Commission Act 2011<sup>1</sup>. The overall mandate of the Commission is to promote gender equality and freedom from discrimination among all people in Kenya, as provided by Article 27, with special attention to special interest groups.

The special interest groups are women, men, PWDs, youth, children and the elderly as well as minority and marginalised communities. The Commission's focus arises from the Constitution's articulation of a set of national values and principles of governance under Article 10, which includes non-discrimination, social justice, human dignity, inclusiveness, equity, human rights, democracy, right to participation and protection of marginalised groups.

Further, Chapter Four of the Constitution contains an elaborate Bill of Rights providing various political, civil, social, economic and cultural rights for Kenyans. These rights are given further impetus by Article 2 (5) declaration that all international and regional instruments (on freedoms and rights) that the country has committed to become part of Kenyan law. Meanwhile, Article 1 declares that sovereign power belongs to the people and may be exercised directly or *indirectly through democratically elected representatives* (emphasis added).

Consequently, in line with its mandate over the inclusion and democratic participation of special interest groups, the Commission undertook an observation and monitoring exercise for the August 8, 2017 General Election, which is the subject of this report.

Article 232 of the Constitution translates the general values and principles of Article 10 into public service values and principles which should underwrite the conduct of all arms of the Government and their agencies, including election managing agencies such as IEBC and Office of the Registrar of Political Parties. Chapter 15 of the Constitution designates NGEC as the lead state agency in promoting gender equality and inclusion; and Article 27 emphasises freedom from discrimination, especially in respect to special interest groups.

Kenya has had contentious general elections in the recent past and IEBC has always undertaken to improve the management of the exercise based on interna-

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<sup>1</sup> The Constitution of Kenya and all of the country's legislation are available on <http://kenyalaw.org/lex//index>.

tional best practice, as well as lessons learnt from previous electoral cycles.

Meanwhile, the Kenyan society in general has a history of practices that discriminate and exclude certain segments of the population, notably the SIGs. Given the constitutional imperatives on inclusion, equality and non-discrimination, it is incumbent on an agency such as NGECE to monitor and observe the nation's performance in this respect.

Besides establishing the status of the context, such an exercise provides NGECE with the evidence with which to fulfil its obligation to educate the general population on related matters, as well as advise government and non-government stakeholders on the same.

## **1.1 Methodology of Monitoring and Observation**

The election observation and monitoring exercise used a mixed methods approach that involved observation and monitoring of the activities of various stakeholders of elections, including electoral officials, candidates and their agents, prospective and actual voters, security agents, and the media. The approach also involved key informant interviews using structured and semi-structured tools which inquired into the conduct of campaigns, voter registration verification, poll and post-polling monitoring and campaign financing.

Structured monitoring tools were developed based on the provisions of electoral laws, and in consultation with various stakeholders including The Oslo Centre, Office of the Registrar of Political Parties, National Cohesion and Integration Commission and Kenya National Bureau of Statistics among others. The survey tools which were both structured and semi-structured were pre-tested, then used to train the 183 observers and monitors.

The monitoring exercise was divided into two phases with the first phase covering the party primaries, political meetings and rallies while the second covered the campaigns, simulation as well as polling and post-polling activities.

All constituencies in the country's 47 counties were targeted for the observation and monitoring exercise and polling stations sampled, though only 45 constituencies were monitored due to logistical challenges. The monitors' distribution was influenced by respective counties' population densities, level of special interest groups' participation as aspirants and candidates as well as already reported incidences of election-related gender-based violence.

The monitors were briefed to observe and file daily reports on activities taking place on the ground. The Commission also utilised open source monitoring

data on official websites, media reports and verified social media accounts. Of the duly filled monitoring tools, some were submitted to the election monitoring coordinator directly on a daily basis, while other data from distant regions were delivered via courier services.

The monitoring coordinator supervised the data entry into the Statistical Package for Social Scientists software for quantitative analysis, and into Excel spreadsheets to generate graphics. Secondary data was also collected and mainly assessed the extent to which the election process complied with the electoral laws.

It is worth emphasising that this report does not feature the perceptions of the voters.

The objectives of the election observation exercise were:

1. To observe participation of special interest groups in the 2017 electoral process.
2. To assess the extent to which the election process adhered to constitutional and other legal provisions (as they relate to Kenyans generally and SIGs in particular).
3. To monitor the political party campaigns and document the extent of integration of the principles of equality and inclusion of special interest groups in the electoral processes.

The foregoing objectives are addressed through a coverage of four (4) key thematic areas: i) Campaign monitoring; ii) Voter registration verification; iii) Poll and post-polling monitoring; iv) Campaign financing.

### *1.1.1 Engagement with external actors*

To enhance its capacity to adequately observe and monitor the elections, the Commission held various consultative meetings with other election observer groups that included the European Union, Carter Centre, Election Observer Group, National Cohesion and Integration Commission and the Independent Electoral and Boundaries Commission.

### *1.1.2 Recruitment and training of monitors*

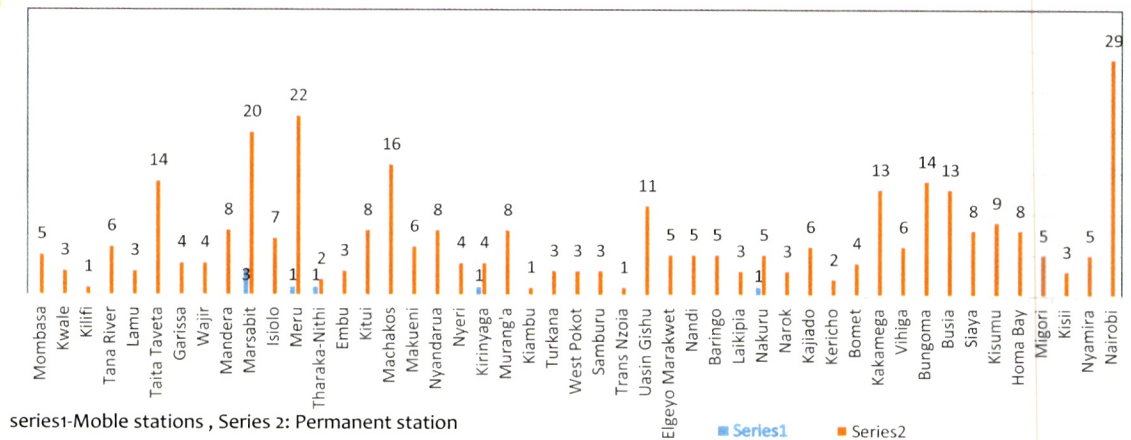
The Commission recruited 98 monitors distributed across the 47 counties whose endeavours were augmented by 85 regular NGEC staff, making a total force of 183. The Commission began with 35 monitors on April 19, 2017, and subsequently increased the number based on the need to effectively cover

special interest groups in the regions. The observers and monitors were mandated to cover different phases of the 2017 General Election process starting from the party primaries to the post-polling stage. Specifically, on the August 8 polling day, the Commission monitored 570 polling stations out of 40,883.

### 1.1.3 Monitoring coverage

The polling stations visited for the monitoring exercise were 575 (including five mobile stations) sampled in 47 counties using convenient method. As explained above, the distribution of the monitors was influenced by respective counties' population densities, level of special interest groups participation as aspirants and candidates as well as already reported incidences of especially election-related gender-based violence. Figure 1.1 shows the random distribution of permanent and mobile polling stations. In arid and semi-arid counties covered by NGECE monitors, Marsabit alone had three such stations<sup>2</sup>.

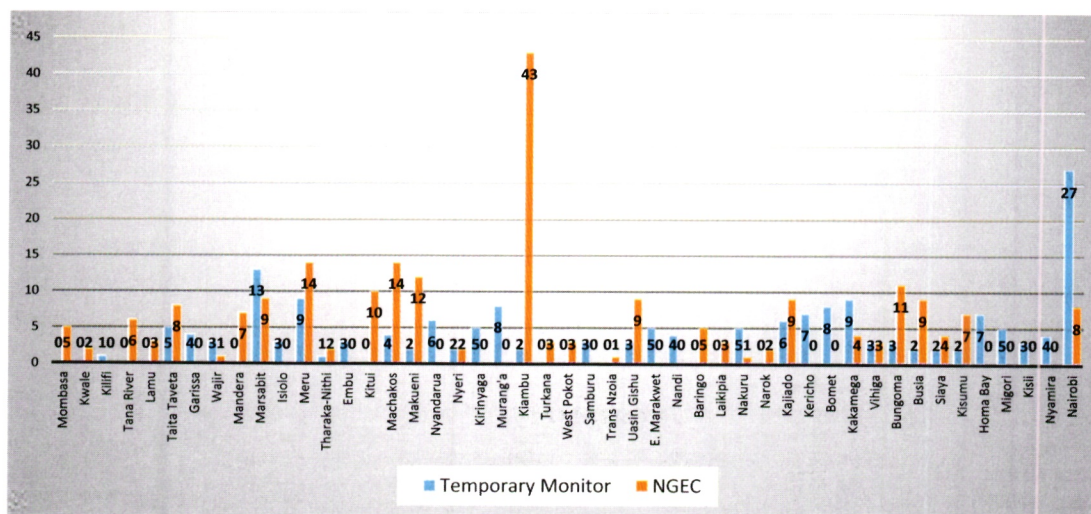
**Figure 1.1:**  
Polling centres  
visited per  
county



While 183 observers covered all of Kenya's 47 counties, their distribution was inequitable from varied perspectives such as population, number of voters, constituencies and polling stations as well as areas where special interest groups were contesting. For example, Nairobi had an aggregate 35 observers for 2.25 million voters, 17 constituencies and 253 polling stations, according to IEBC data, compared to Kiambu's 45 observers for 1.18 million voters, 12 constituencies and 1,963 polling stations.

<sup>2</sup> The non-ASAL counties with a single mobile station each were Kirinyaga, Meru, Nakuru and Tharaka-Nithi.

**Figure 1.2:**  
Distribution  
of observers  
and temporary  
monitors



### 1.1.4 Data management, analysis and processing

The monitors were briefed to observe and file daily reports on activities taking place on the ground. The Commission also utilised open source monitoring data on official websites, media reports and verified social media accounts. Of the duly filled monitoring tools, some were submitted to the election monitoring coordinator directly on a daily basis, while other data from distant regions were delivered via courier services. The monitoring coordinator supervised data entry into the Statistical Package for Social Scientists software for quantitative analysis, and into Excel spreadsheets for generation of graphics.

## 1.2 Outline of the Report

Chapter Two summarises the constitutional and legal context of the 2017 General Election. The report also presents the number of the gazetted party and independent candidates by the various seats contested for. Chapter Three presents the findings of the observation and monitoring exercise under sub-headings that cover the various stages of a general election exercise from the party primaries to the post-polling activities. Elaboration of the findings is presented in Chapter Three. Chapter Four offers a raft of recommendations towards greater special interest groups inclusion and equality as well as non-discrimination, particularly in electoral issues.

# CHAPTER TWO

## 2.0 Legal and Policy Frameworks

**T**he international, regional and national policies and legislation relating to Kenyan elections in general, and to the inclusion of special interest groups in particular, are well discussed in Part II of a background to this report<sup>3</sup>. Among other items, the report discusses the following:

- International Covenant on Civil and Political Rights
- United Nations Convention on the Elimination of All Forms of Discrimination against Women
- United Nations Convention on the Rights of Persons with Disabilities
- Sustainable Development Goals (#5 and #10)
- African Charter on Human and People's Rights on the Rights of Women in Africa, the (Maputo Protocol)
- The African Charter on Human and People's Rights
- African Charter on the Youth
- The African Charter on Democracy, Elections and Governance
- The Constitution of Kenya 2010
- Political Parties Act No.11 of 2011
- National Cohesion and Integration Act No.12 of 2008
- Elections Campaign Financing Act No.42 of 2013
- National Gender and Equality Act, 2011
- The Elections (General)(Amendment) Regulations, 2017
- The Elections (Voter Education) Regulations 2017
- The Elections (Party Primaries and Party Lists) Regulations, 2017
- Code of Conduct for Political Parties
- Guide to Political Parties Registration, Guide to Political Party Membership and Political Parties Manual

The following sub-sections offer highlights from a few of the frameworks above.

### 2.1 The Constitution of Kenya

The preamble to the Constitution lists equality as one of the six essential values upon which good governance is predicated. Equality is further emphasised by Article 10 among whose other national values and principles of governance include human dignity, social

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<sup>3</sup> See Ongaro, Beverline (2017), Report on the Rapid Assessment of the Select Political parties' Constitutions, Coalition Agreements, Nomination Rules and Regulations on Gender Equality and Inclusion. Nairobi: National Gender and Equality Commission.

justice, inclusiveness, equality, non-discrimination and protection of the marginalised, which should be applied by all public officers in interpreting the Constitution, policies and other statutes. This report's Introduction chapter also noted Article 232 on public service values and principles, and Chapter Four's Bill of Rights, the latter's Article 27 emphasising the rights to equality and freedom from discrimination.

In line with Article 27 which is the foundation for NGECC's mandate, every person is equal before the law and has the right to equal protection from, and benefit of it. Further, women and men have the right to equal treatment, including the right to equal opportunities in the political sphere. It is, therefore, incumbent upon NGECC to ensure the full realisation and enjoyment of these political rights; hence its investment in an election monitoring exercise.

The Constitution safeguards the special interest groups' political rights, with Article 38 guaranteeing the right of every citizen – including special interest groups – to form or participate in forming political parties, to participate in their activities including recruiting members, campaigning, and contesting as well as holding office.

The Constitution further mandates the State to progressively ensure that at least five (5) percent of members of elective and appointive public bodies are PWDs and to take steps, including affirmative action, to ensure that youth have opportunities to be associated with, be represented and participate in the political sphere.

The State should further put in place affirmative action programmes designed to ensure that minorities and marginalised groups participate and are represented in governance and other spheres of life.

One of the Commission's core responsibilities is ensuring conformity with Article 27 (8) requirement that not more than two-thirds of elective and appointive positions is of the same gender.

This is a further reason for the Commission's interest in monitoring both the process and outcomes of the General Election including establishment of the country's national and county legislative bodies, and by extension, the national and county level executives. Such monitoring consequently provides the basis of NGECC's facilitation or advice to national and county governments, as well as other public and private Institutions, on equality and freedom from discrimination.

## **2.2 The National Gender and Equality Act, 2011**

The Commission was operationalised by the National Gender and Equality Act 2011, which gave it the overall mandate of promoting gender equality and freedom from discrimination, as per Article 27 of the Constitution.

The Commission's functions under section 8 of the Act include: monitoring, facilitating and advising on the integration of the principles of equality and freedom from discrimination in all national and county policies, laws, and in administrative regulations in all public and private institutions; conducting audits on the status of special interest

groups; and preparing and submitting annual reports to Parliament on the status of the implementation of its obligations under this Act.

These functions lay the ground for the Commission's participation in monitoring elections. The main concern being over the special interest groups' effective inclusion, allowing them equal opportunity to vote, contest and/or be nominated as well as preside over, monitor and observe such polls.

### **2.3 The Elections Act (as amended 2017)**

Section 42 of the Elections Act compels IEBC to accredit institutions to observe the elections, resulting in independent reports on an election cycle. This is aimed at promoting supervision and oversight to ensure credibility of the elections. Consequently, NGECE performs its oversight role through its National Elections Monitoring Exercise.

### **2.4 IEBC's Election (Party Primaries and Party Lists) Regulations 2017**

The Independent Electoral and Boundaries Commission is the body mandated statutorily to manage the electoral process from the demarcation of constituency boundaries to voter education and ultimately conduct polling and announcement of outcomes. Prior to the August 8, 2017 polling day, IEBC issued various regulations to streamline a free and fair conduct of the impending event, covering voter education, voter registration and verification of voter registers, the conduct of party primaries and production of party lists as well as the use of technology<sup>4</sup>.

In developing its election monitoring and observation tools, the Commission considered the Regulations in line with its role in facilitating and advising on the integration of the principles of equality and freedom from discrimination.

The Regulations mandate political parties to hold their primaries in an open, transparent, accountable, credible and peaceful way. While reiterating the definition of special interest groups drawn from Section 2 of the Political Parties Act, however, the Regulations fall short of specifying the statutory mandates of the Registrar of Political Parties relating to special interest groups, such as empowering the rejection of party lists that do not meet the gender balance rule. However, the Regulations provide

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<sup>4</sup> The Regulations are easily accessible on <http://kenyalaw.org/lex//sublegview.xhtml?subleg=No.%2024%20of%202011>. Section 54 (1) provides that a party list contain the names of all persons who would stand elected if the party were entitled to seats in the National Assembly, Senate or the County Assembly, as the case may be on the basis of proportional representation in accordance with Article 90 of the Constitution and sections 34, 35, 36 and 37 of the Act.

<sup>5</sup> The government finances the Fund, which is shared among parties with a parliamentary presence. For details, see Ongaro (2017).

checklists for the party nominations, including the need to establish the supervisory party Election Board which nominate officials to conduct the primaries. Parties are required to develop and publish respective codes of conduct and internal dispute resolution mechanisms.

## **2.5 Political Parties Act No.11 of 2011**

The Political Parties Act creates the Office of the Registrar of Political Parties (ORPP) and provides for the registration, regulation, monitoring, investigation and supervision of political parties as well as the administration of the Political Parties Fund<sup>5</sup>. Amendments to the Political Parties Act in 2016 focused on the rights of special interest groups, based on the values and principles of Article 10 of the Constitution, as well as the election principles of Article 81.

The Political Parties Act obliges political parties to ensure their special interest group members participate in management and at general levels and to maintain registers of active membership – including special interests group members that reflect regional, gender and ethnic diversity. To this end, the Political Party Fund provides that 30 percent of respective party shares be used to promote special interest groups in electoral contests; but the Fund also penalises parties for weak special interest groups inclusion.

Section 39 (1) of Political Parties Act establishes the Political Parties Disputes Tribunal which handles issues within parties. To enhance party compliance over these concerns, the Registrar of Political Parties has developed the Guide to Political Parties Registration, Guide to Political Party Membership and Political Parties Manual.

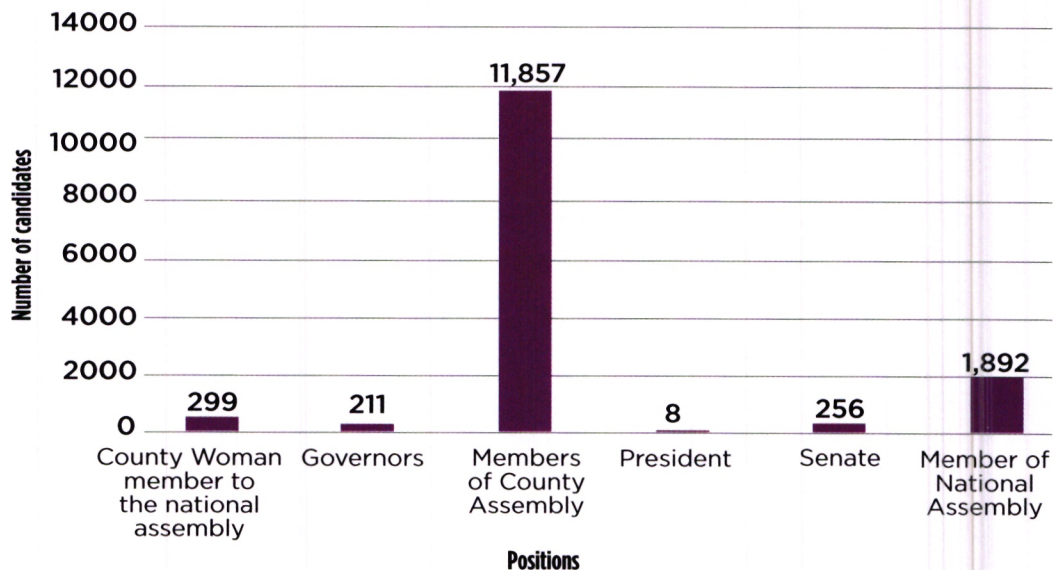
## **2.6 Code of Conduct for Political Parties, 2016**

Enshrined in Political Parties Act, the political parties' Code of Conduct reiterates their obligation to promote the constitutionally mandated participation and representation of special interest groups by integrating affirmative action policies, plans and strategies. The Code requires parties to address issues that impede special interest groups participation such as weak administrative rules, transparency and accountability, weak finance base, bribery, disruption of meetings, incitement and violence.

## **2.7 Gazetted Candidates by Positions Contested**

On June 27, 2017, IEBC produced a Special Issue of *The Kenya Gazette*, Vol.CXIX -- No.84 in which it listed all persons nominated to contest in the August 8, 2017 elections, based on the authorities of the Constitution, IEBC Act, Elections Act and The Elections (General) Regulations<sup>6</sup>. The distribution of the gazetted party candidates is reflected in Figure 2.1, confirming the expected dominance of the candidates contesting the position of Member of County Assembly (MCA), followed by those contesting the position of Member of National Assembly (MNA). The County Woman Member of the National Assembly (CWMNA) were 100 percent female, while all the eight presidential candidates were male.

**Figure 2.1:**  
Gazetted candidates for the August 8, 2017 General Election



Source: [https://www.iebc.or.ke/resources/?List\\_of\\_Candidates\\_for\\_2017\\_General\\_Election](https://www.iebc.or.ke/resources/?List_of_Candidates_for_2017_General_Election)

Among the 211 gubernatorial candidates, four (4) percent were female. Women accounted for 7.8 percent of the senatorial candidates and 7.9 percent of the county assembly candidates. The significance of the Constitution (2010) provision for democratic participation can be gauged from the fact that the total number of independent candidates reflected in Table 2.1 amounted to 41.2 percent of the total candidates nominated by political parties.

The more significant aspect of the table, however, is the fact that the women share of independent candidates was consistently below six percent. This low number undermines the constitutional provision that no gender should account for more than two-thirds of the officers of any public institution, such as Parliament or the County Assembly. Indeed, if the 68 County Woman Representatives candidates are excluded, then women accounted for only 203 independent candidates, a mere 4.3 percent of the total independent candidates.

**Table 2.1**  
Distribution of independent candidates by office and sex

Position	Male	%	Female	%	Total
Governors	62	98.4	1	1.6	63
Woman Representative	0	0	68		100
Senators	84	94.4	5	5.6	89
MNA (MPs)	578	94.3	35	5.7	613
MCAAs	3672	95.8	162	4.2	3834
Sub-total	4,396		271		4667

Source: IEBC data base, 2017

6 The 6-schedule lists are at <https://www.iebc.or.ke/uploads/resources/17umEj7cBg.pdf>

# CHAPTER THREE

## 3.0 The Findings

**A**s noted in the discussion on methodology, the findings of this report are largely based on a survey of observers and monitors, and not of any prospective or actual voters, or party and electoral managers. While the observers and monitors are out in the field for the duration of the election cycle, they move between locations and stations, meaning they might not report an incident that occurred before their arrival or departure. The report has also drawn on a related background study<sup>9</sup>. At the risk of being repetitive, this chapter presents extensive details of findings, an approach that responds to the election monitoring tool's useful exploration of the status of SIGs inclusion and participation in elections.

## 3.1 Special Interest Groups and Background Issues in Party Politics

Among other things, the 2016 amendments to the Political Parties Act (PPA) heightened concerns over the participation of special interest groups in party and national politics, as managers as well as prospective and actual candidates and/or voters. Consequently, NGEAC commissioned a 2017 rapid assessment of the constitutions of 20 political parties to evaluate their awareness of the requirement to include special interest groups in their frameworks and actual activities<sup>10</sup>. The findings of the assessment suggest that such parties merely pay lip service to the context without exerting themselves to include special interest groups. For one, as seen in Table 3.1, the political parties' constitutions do not unequivocally define the special interest groups, as required by section three of the Political Parties Act, or indeed in the wholesome manner prescribed by the Constitution (as defined above). For example, the constitution of Jubilee Party refers only to women, youth and older persons, while that of the Orange Democratic Movement (ODM) only lists women, youth and PWDs.

**Table 3.1:**  
Attention of selected party constitutions to special interest groups

Jubilee Party
<ul style="list-style-type: none"><li>• Special interest groups are listed as women, youth, persons with disabilities and older persons. Not included are minorities and marginalised communities</li><li>• Specific special interest groups organs include Jubilee Women's League, Youth League, PWDs League and Council of Elders, but none for ethnic minorities and marginalised groups, as well as workers.</li></ul>

<sup>9</sup> See Ongaro (2017).

<sup>10</sup> This sub-section draws heavily on Ongaro (2017).

<b>Orange Democratic Movement (ODM)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined, but is listed as women, youth and persons with disabilities. Not included are minorities and marginalised.</li> <li>• Specific organs include ODM Students League, Women League and Youth League, but none for PWDs, older persons, ethnic minorities and marginalised groups, and workers.</li> <li>• Has secretary for special interest groups and PWDs</li> </ul>
<b>Wiper Democratic Movement-Kenya (WDM-K)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include Wiper Women Democrats and Young Wiper Democrats, but none for PWDs, older persons, workers, ethnic minorities and marginalised groups.</li> <li>• Has individual secretaries for minorities, special interest groups and disability affairs.</li> </ul>
<b>Forum for Restoration of Democracy-Kenya (FORD-K)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include FORD-K Students League, Youth League, Women League and Senior's Council, but none for workers, PWDs, ethnic minorities and marginalised.</li> <li>• PWDs and marginalised groups to be co-opted into the party.</li> </ul>
<b>National Alliance Rainbow Coalition-Kenya (NARC-K)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include NARC-K Women League and Youth League, but none for PWDs, older persons, workers, minorities and marginalised.</li> <li>• PWDs and marginalised to be co-opted into the party.</li> </ul>
<b>Amani National Congress (ANC)</b>
<ul style="list-style-type: none"> <li>• Special interest groups definition vague though it includes women, youth and PWDs. It could be inferred to mean PWDs since one special interest groups secretary's function is to 'promote and advocate for the rights of PWDs in the party'</li> <li>• Specific organs include the ANC Youth League and Women League, but none for workers, the elderly, minorities and marginalised.</li> <li>• PWDs and marginalised groups to be co-opted into the party.</li> </ul>
<b>Third Way Alliance Kenya</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined</li> <li>• Specific organs include the Third Way Alliance Youth League and Women League, but none for PWDs, the elderly, workers, ethnic minorities and marginalised groups.</li> <li>• PWDs and marginalised groups to be co-opted into the party</li> </ul>
<b>Kwela Party</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Does not distinguish special interest groups organs, and is special interest groups blind, only providing that party organs adhere to the two-thirds gender rule.</li> </ul>
<b>Maendeleo Chap Chap Party (MCCP)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include MCCP Women League and Youth League, but none for PWDs, the elderly, workers, ethnic minorities and marginalised groups.</li> </ul>
<b>Chama Cha Mashinani (CCM)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include CCM Students League, Young League, Women League, and CCM Seniors' Council, but none for PWDs, minorities and marginalised groups.</li> </ul>

<b>Kenya African National Union (KANU)</b>
<ul style="list-style-type: none"> <li>• Defines special interest groups to include women, youth, PWDs as well as marginalised and the minority.</li> <li>• Specific organs include KANU Youth Congress and Women Congress, but none for PWDs, the elderly, workers, ethnic minorities and marginalised groups.</li> </ul>
<b>Party of National Unity (PNU)</b>
<ul style="list-style-type: none"> <li>• Special interest groups defined to include women, PWDs, youth, minorities and the marginalised as well as professional organisations, labour unions, community organisations and cooperatives.</li> <li>• Specific organs include PNU Youth Congress and Women Congress, but none for PWDs, the elderly, workers, ethnic minorities and marginalised groups.</li> </ul>
<b>Chama Mwangaza Daima (CMD)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include CMD Women League and Youth League, but none for PWDs, the elderly, workers, ethnic minorities and marginalised groups.</li> <li>• CMD Women League membership includes PWDs and youth to ensure inclusivity.</li> </ul>
<b>United Democratic Party (UDP)</b>
<ul style="list-style-type: none"> <li>• Defines special groups to include women, youth and PWDs.</li> <li>• Specific organs include UDP Youth League and Women, but none for PWDs, elderly, workers, ethnic minorities and marginalised groups.</li> </ul>
<b>Federal Party of Kenya</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• No specific special interest groups organs but NEC membership includes representative of youth, PWDs, women league and workers.</li> </ul>
<b>SAFINA</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include National Youth Council, National Women Council and National Equality Council respectively but does not include specific organs for older persons and workers.</li> </ul>
<b>The National Vision Party</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined</li> <li>• Specific organs include Youth and Women Congress, but none for PWDs, older persons, workers as well as ethnic minorities and marginalised groups.</li> </ul>
<b>Chama Cha Uzalendo</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include Uzalendo Women Congress, Youth Congress, PWDs Congress, Uzalendo Council of Elders, but none for workers, ethnic minorities and marginalised groups.</li> </ul>
<b>Agano Party</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include Youth League and Women League, but none for PWDs, workers, minorities and marginalised groups.</li> </ul>
<b>Labour Party of Kenya (LPK)</b>
<ul style="list-style-type: none"> <li>• Special interest groups not specifically defined.</li> <li>• Specific organs include LPK Women Congress, Youth Congress and LPK Disability Congress, but none for minorities and marginalised groups, or older persons and workers.</li> </ul>

Source: Ongaro (2017)

Review of the 20 political party constitutions found commitments to the rights of party members, including special interest groups and the Registrar of Political Parties' Code of Conduct, especially with respect to violence, which often deters SIGs' participation. Indeed, some parties identified sexual abuse – gender-based violence – as grounds for disciplinary action, including possible expulsion<sup>11</sup>. Further, the constitutions generally recognise that part of the proceeds of the Political Party Fund should be used to champion special interest groups' rights. However, the constitutions seem to focus disproportionately on gender equality at the expense of other special interest groups categories, as seen in Table 3.1.

The definitional shortcomings of the Jubilee Party and ODM constitutions are significant as they point out how special interest groups are treated in the country because, as shown in Table 3.2, the two political parties account for about 85 percent of the combined membership of Kenya's largest 20 political parties, with about 20 million registered voters. The Registrar of Political Parties has ensured that parties comply with the two-thirds gender rule. However, the political parties' attention to the other the special interests categories – youth, the elderly, PWDs, minority and marginalised groups – has lagged behind. This lacuna undermines tracking of respective parties' adherence to the constitutional and legislated concerns over the inclusion and non-discrimination against special interest groups.

Despite the Registrar of Political Parties providing political parties with software for maintaining party membership records, the weak disaggregation of data seen during the rapid assessment suggests that parties have not fully exploited the tool's potential. Additionally, the Registrar of Political Parties has identified instances of fraudulent registration of individuals as party members<sup>12</sup>.

**Table 3.2: Sex distribution of the membership of main political parties, 2017**

Political Party	Male (%)	Female (%)	Total
Jubilee Party (JP)	52	48	7,985,895
Orange Democratic Movement (ODM)	55	45	2,121,053
Wiper Democratic Movement-Kenya (WDM-K)	55	45	433,702
Forum for Restoration of Democracy-Kenya (FORD-K)	64	36	180,439
National Alliance Rainbow Coalition-Kenya (NARC-K)	57	43	120,283
Amani National Congress (ANC)	53	47	63,707
Third way Alliance Kenya	66	34	36,164
Ukweli Party	62	38	28,788

<sup>11</sup> These parties included the women-led NARC-K and LPK alongside MCCP, UDP and Safina.

<sup>12</sup> While fraudulent registration is a crime, the numbers affected are modest compared to the total membership of the parties. Example: 30 for Jubilee Party; 24 for ODM and nine for KANU.

Political Party	Male (%)	Female (%)	Total
Maendeleo Chap Party (MCCP)	54	46	62,485
Chama Cha Mashinani (CCM)	53	47	67,405
Kenya African National Union (KANU)	61	39	174,652
Party of National Unity (PNU)	55	45	112,268
Chama Mwangaza Daima	43	57	106,366
United Democratic Party (UDP)	50	50	49,108
Federal Party of Kenya	51	49	29,141
SAFINA	60	40	107,991
The National Vision Party	56	44	51,435
Chama Cha Uzalendo	54	46	46,545
Agano Party	52	48	51,972
Labour Party of Kenya (LPK)	53	47	59,842

Source: Republic of Kenya, ORPP (July 2017), quoted in Ongaro (2017).

Although females outnumber males in the national population, Table 3.2 shows that women's share of membership in political parties is lower than that of men. Data indicates that women's share of membership was greater only in Chama Mwangaza Daima, while there was parity of shares in United Democratic Party. The women's respective shares in four parties were less than 40 percent. These disadvantages in the general numbers clearly show obstacles that women are likely to face in contesting the party primaries.

Observers found that political party constitutions and rules undermine special interest groups access to party politics through requirements that invariably impinge on them proportionately more than on non-special interest group members of society. For example, party membership fees range from KSh3,000 to KSh30,000 in a country in which 36 percent of the population lives below the poverty line<sup>13</sup>. The need to possess a national identification card to become a party member is a further differentiating factor: a 2016 NGEC study found 15 percent of the women surveyed lacked identification cards. The respective shares of other special interest groups without cards were as follows: 49 percent of the PWDs; two percent of the elderly and 26 percent of the youth. Additionally, the study found wide regional differences in access to such cards<sup>14</sup>. The observers noted that special interest groups were largely excluded from the management and administration of important party organs, such as the election board and the Internal Dispute Resolution framework.

13 This official 'overall poverty' rate is available in the Kenya National Bureau of Statistics (2018), Popular version 2015/16 Kenya Integrated Household Budget Survey (KIHBS) reports. Nairobi: KNBS. Available on <https://www.knbs.or.ke/download/popular-version-201516-kenya-integrated-household-budget-survey-kihbs-reports/?wpdmdl=4868>

14 NGEC (2016), Status of Inequality and Inclusion in Kenya. A report of the National Gender and Equality Commission.

## 3.2 Party Primaries

The rapid assessment of the 20 political parties found that while access for wana-nchi to their constitutions and other instruments was limited, all political parties had election and nomination rules as required by Section 27 (1) of the Elections Act of 2011, and had duly submitted the same to the Office of the Registrar of Political Parties. These party nomination rules provided that all members can apply for leadership positions without discrimination, and provided pre-qualification details for such applications. Prospective candidates would sign the Code of Conduct; and the party election board would organise and publicise respective primaries as well as confirm the fee payable for various positions that are to be contested.

### 3.2.1 Political party fees for candidates<sup>15</sup>

Table 3.3 lists the basic non-refundable fees for the various electoral seats across the 20 parties covered by the rapid assessment, with the popular rate for the presidential position being KSh one million. Safina party alone specified a KSh500,000 fee for the Deputy President's post. The rate for gubernatorial seat varied from KSh100,000 to KSh500,000; and Safina, FORD-Kenya and KANU had fees for deputy governor candidates.

**Table 3.3: Fees and waivers for prospective candidates across the main parties (KSh'000)<sup>16</sup>**

	President	Governor	Senator	MNA	CWRNA	MCA
Jubilee Party	D.N.	500	250	250	250	50
	Women, youth and PWD candidates pay 50 percent of the rates, except for CWRNA.					
Orange Democratic Movement	1,000	500	250	250	100	25
	Information not available					
Wiper Democratic Movement-Kenya	1,000	500	200	200	N/A	20
	Women and youth pay KSh15; but unclear if this is for all positions.					
Forum for Restoration of Democracy-Kenya	1,000	300	100	100	100	20
	Women (excluding CWRNA), PWDs and youth as special interest groups pay 50 percent of the nomination fees <sup>17</sup> .					

<sup>15</sup> This sub-section also draws heavily on Ongaro (2017).

<sup>16</sup> For each political party, the first row gives the set fees for the various elective seats, while the second row provides any qualification on the fee status for special interest groups.

<sup>17</sup> FORD-Kenya Public Notice Nomination Fees for FORD-Kenya Candidates <http://www.fordkenya.co.ke/wp-content/uploads/2017/01/fordkenyanominationfeestructure-1.pdf> [accessed on June 19, 2017].

	<b>President</b>	<b>Governor</b>	<b>Senator</b>	<b>MNA</b>	<b>CWRNA</b>	<b>MCA</b>
National Rainbow Coalition–Kenya	1,000	200	50	50	50	25
	Women, PWD, youth as special interest groups pay less 10 percent than stated fee.					
Amani National Congress	1,000	300	N/A	N/A	N/A	20
	Women, PWDs and youth candidates as SIG pay 50 percent of rates except for MCA candidates who pay the full fee.					
Third way Alliance Kenya	Nomination rules stipulate that NEB prescribes nomination fees					
	It is unclear whether the National Executive Committee has the power to waive nomination fees for SIGs. The nomination rules provide that it “shall/may opt to waiver or enter into concessions on matters pertaining nomination fees with regard to certain candidates” <sup>18</sup> .					
Ukweli Party	No presidential candidate. ‘Standard nomination fees’ apply for all other seats.					
	No special provisions for SIGs					
Maendeleo Chap Chap	1,000	250	150	150	100	20
	The party constitution and nomination rules do not state what is to be paid by SIGs, leaving this to be determined by the elections board.					
Chama Cha Mashinani	N/A	300	100	100	100	20
	SIGs pay standard nomination fees, except PWDs who pay Kshs15.					
Kenya African National Union	1,000	300	200	100	50	20
	No variation of fees for SIGs; but NEB constitutionally empowered, with or without conditions, to vary, waive or revise nomination fees to a maximum 50 percent for vulnerable groups which apply in writing <sup>19</sup> .					
Party of National Unity	Election board and NEC determine as necessary					
	Discounted fees are available for women, youth and PWDs					
Chama Mwangaza Daima	National Central Committee determined, but free for SIGs					
	Nomination fees for special interest groups – women, youth and PWDs is free <sup>20</sup>					
United Democratic Party	1,000	200	100	100	100	10
	MNA (PWDs and women) fee is KSh50. County Woman Representative Ksh100 and MCA KSh5.					
Federal Party of Kenya	No fees		50		50	10
	No provision for graduated fees					

<sup>18</sup> Article 34 (2) of Third way Party Nomination Rules

<sup>19</sup> Part 4 of KANU nomination rules

<sup>20</sup> Part IV(14) of nomination rules

<sup>21</sup> Article 11 of SAFINA Nomination Rules and Procedures

	President	Governor	Senator	MNA	CWRNA	MCA
SAFINA	1,000	100	80	50	50	30
	Youth and women candidates pay 50 percent of the nomination fees <sup>21</sup> which NEC may revise downwards.					
The National Vision Party	N/A	300	150	150	75	30
	President (N/A), governor (female) KSh250, senator (female) KSh100, MNA (female) Ksh100, MCA (female) Ksh25, MNA (youth) Ksh50, MCA (youth) Ksh25 and MCA (PWD) KSh20.					
Chama Cha Uzalendo	Not stipulated, but EB and NEC can consult					
	The EB and NEC may for various positions grant discount to women youth and PWDs. <small>Source: Uganda (2017)</small>					
Agano Party	Direct nominations					
	No information on nomination fees					
Labour Party of Kenya	1,000	300	150	50	100	25
	Rates for SIGs — President KSh750, governor KSh200, senator KSh75, MNA KSh75, County Women Representative KSh75 and MCA KSh15.					

In keeping with the demand for affirmative action to enable special interest groups participation, nearly 70 percent of the 20 parties reviewed had graduated fees, either setting reduced nomination fee for such candidates or waiving the fee altogether. Thus while ODM's position in respect of graduated fees is not specified in its constitution and nomination rules, Jubilee and FORD-K require special interest groups to pay only 50 percent of the fee, while NARC-K charges a mere 15 percent of the fees. However, most of the parties assume that women who are contesting the County Woman Representative seat have adequate means and, therefore, deserve no special consideration.

### 3.2.2 Party membership records

Participation in party primaries is based on party membership, the records for which have various shortcomings from a special interest groups perspective as noted above. Such shortcomings arise because the parties have not internalised an ICT-based management of membership rolls offered to them by the Registrar of Political Parties. Additionally, the rapid assessment showed that no party had submitted the list of its office bearers to the Registrar of Political Parties, thereby conducting the primaries under *ad hoc* officials, contrary to the 2017 Regulations. A major obstacle to the efficient conduct of party primaries was the tensions between the main parties, which feared that losers in their respective primaries held earlier in the electoral cycle, would defect to other parties. This caused parties to delay their nominations as much as possible, in instances with multiple re-scheduling of the exercise. In turn, this contributed to IEBC's failure to publish party lists by the scheduled June 26, 2017 deadline. *Ad hoc* postponements meant that some prospective voters missed the nominations due to, for instance, the inability to get repeated, unscheduled leave of absence from work.

Other than obstacles at party head offices, barriers to transparent party primaries from an special interest groups perspective were issues like poor flow of accurate information about the exercise, late opening and closing of stations, inaccessibility of polling facilities and materials as well as lack of material translated in Kiswahili, Braille and local languages. There was also lack of sign language interpreters.

### 3.2.3 Disputes in party primaries

The foregoing circumstances led to extensive disgruntles over the outcomes of the party nominations. As required by the Regulations, parties had established the mandated Internal Dispute Resolution mechanisms; and the Political Parties Dispute Tribunal (PPDT) exists at the national level. However, the Internal Dispute Resolution was for example, expensive – ODM charged KSh30,000, and lacked transparency in establishment and operation, while WDM-K elections and nomination rules stipulate categorically that ‘advocates have no right of audience before the Tribunal’<sup>22</sup>. Such realities deterred disgruntled candidates from approaching the institutions for redress.

Nonetheless, as Table 3.4 shows, several complaints were taken to the Political Parties Dispute Tribunal, whose records do not, however, allow for a comprehensive special interest groups analysis. Given the time and money implications<sup>23</sup>, as well as evidence of Table 3.2, male complainants were more than female ones. The poor conduct of the primaries and resolution of disputes resulted in extensive dissatisfaction, which partially explains the more than 4,000 independent candidates reflected in Table 2.1. In the context, it is quite likely that special interest groups bore the brunt of the dissatisfaction.

**Table 3.4**  
Disputes  
in Primaries  
determined  
by Political  
Parties  
Dispute  
Tribunal

	Number of petitions filed by...		
	Female candidates	Male candidates	Male and female candidates
County Governor	1	6	3
Member of Senate	4	6	0
Member of National Assembly	6	88	2
County Woman Member to National Assembly	5	N/A	N/A

Source: Political Parties Dispute Tribunal (July 2017), cited in Ongaro (2017).

<sup>22</sup> Article 6.2.7 of WDM-Kenya EN Rules.

<sup>23</sup> In a patriarchal society such as Kenya, women candidates would likely be required to return to domestic responsibilities which had suffered during their campaign absence; and women are less independent financially.

Political party lists are available online<sup>24</sup> as are IEBC's gazetted lists of nominated party and independent candidates<sup>25</sup>. As noted previously, the lists are not comprehensive enough for a full special interest groups analysis even if they distinguish the sex of nominees, as reflected in Table 3.5. The data shows that across the 20 parties, NARC-K's nomination for governor alone met the two-thirds gender rule. Ukweli Party came close with 25 percent female share each for the National Assembly and MCA contests, but the rest of the parties performed dismally despite the elaborate gender commitments of their constitutions and electoral rules. The overall average of the last row provides an indicative average of the performance of the 20 parties, with respective scores for the National Assembly (6.2%), Senate (3.1%), Governor (4.7%) and County Assembly (6.5%). These very low averages suggest that party commitment is not a sufficient condition for the attainment of either the two-thirds gender rule or gender equality.

**Table 3.5: Female shares and total numbers of party nominees for the General Election**

	National Assembly		Senate		Governor		County Assembly	
	Female (%)	Total	Female (%)	Total	Female (%)	Total	Female (%)	Total
Jubilee Party	8.5	272	13.0	46	4.4	45	4.7	1330
Orange Democratic Movement	4.3	184	3.1	32	0.0	26	3.3	902
Wiper Democratic Movement-Kenya	7.8	77	0.0	14	16.7	12	5.7	419
Forum for Restoration of Democracy-Kenya	2.3	86	8.3	12	0.0	4	2.5	472
National Rainbow Coalition - Kenya,	10.0	30	0.0	3	33.3	3	15.6	109
Amani National Congress	4.3	93	0.0	7	16.7	6	3.7	355

<sup>24</sup> [https://www.iebc.or.ke/resources/?Party\\_list](https://www.iebc.or.ke/resources/?Party_list)

<sup>25</sup> Go to <https://www.iebc.or.ke/uploads/resources/17umEj7cBg.pdf>

	National Assembly		Senate		Governor		County Assembly	
Third way Alliance Kenya	0.0	2	0.0	3	0.0	1	11.1	36
Ukweli Party	25.0	4	N/A	0	N/A	0	25.0	8
Maendeleo Chap Chap	8.5	94	0.0	12	0.0	8	4.3	576
Chama Cha Mashinani	2.9	35	0.0	3	0.0	5	6.5	293
Kenya African National Union	5.8	104	11.8	17	0.0	9	4.9	491
Party of National Unity	2.8	36	0.0	3	0.0	4	6.3	270
Chama Mwan-gaza Daima	0.0	5	0.0	1	0.0	1	4.4	68
United Democratic Party	0.0	25	0.0	2	0.0	2	4.2	167
Federal Party of Kenya	6.7	15	0.0	1	N/A	0	3.7	109
SAFINA	13.3	15	N/A	0	N/A	0	3.9	129
The National Vision Party	6.3	16	0.0	3	0.0	1	2.4	126
Chama Cha Uzalendo	0.0	6	0.0	2	N/A	0	3.9	76
Agano Party	0.0	11	0.0	3	0.0	1	8.3	72
Labour Party of Kenya	15.4	13	20.0	5	N/A	0	4.9	82
Overall average	6.2		3.1		4.7		6.5	

Source: Extracted from the Kenya Gazette Notice No.6253 of June 27, 2017, cited in Ongaro (2017).

### 3.3 Voter Verification

Inclusion requires the special interest groups to be involved as voters and candidates as well as election managers. Observers reported 1,618 instances of SIGs as officials at verification stations, constituting 83.4 percent of all observations, as reflected in Figure 3.1. Of the 1,751 verification stations or sites reviewed, 95 percent were adjudged to be accessible to special interest groups, with 98 percent of the verification officials upholding special interest group interests during the exercise. The dominant considerations towards the special interest groups were with respect to communication assistance and physical accessibility in 50 percent and 41 percent of the instances respectively, while in about two percent of the instances, attention involved assistance in queues and detailed explanation of electoral procedures.

**Figure 3.1**  
Special interest groups participation in voter verification

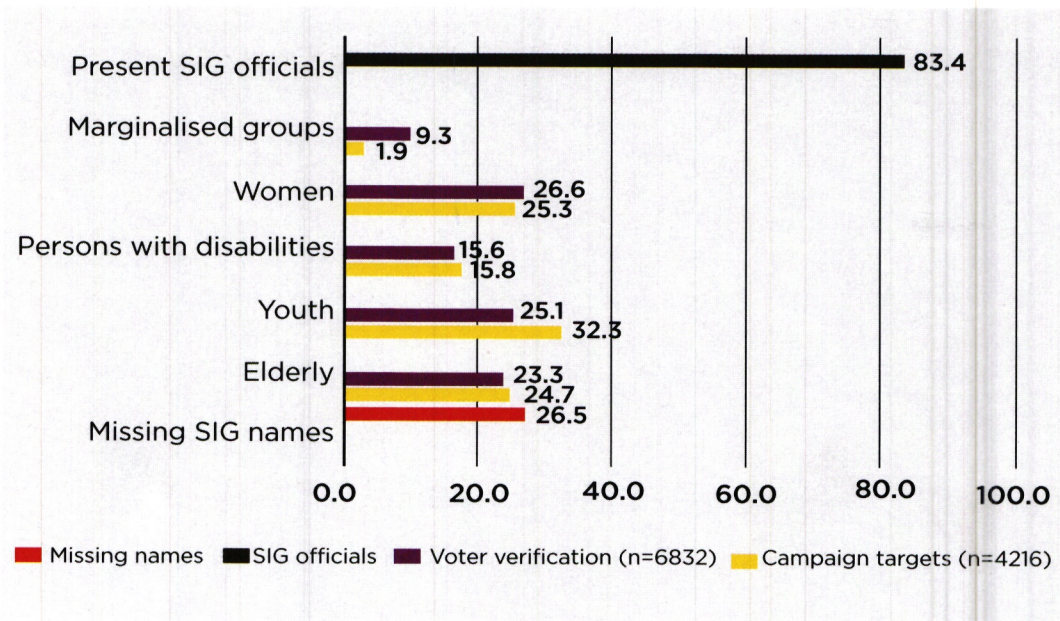
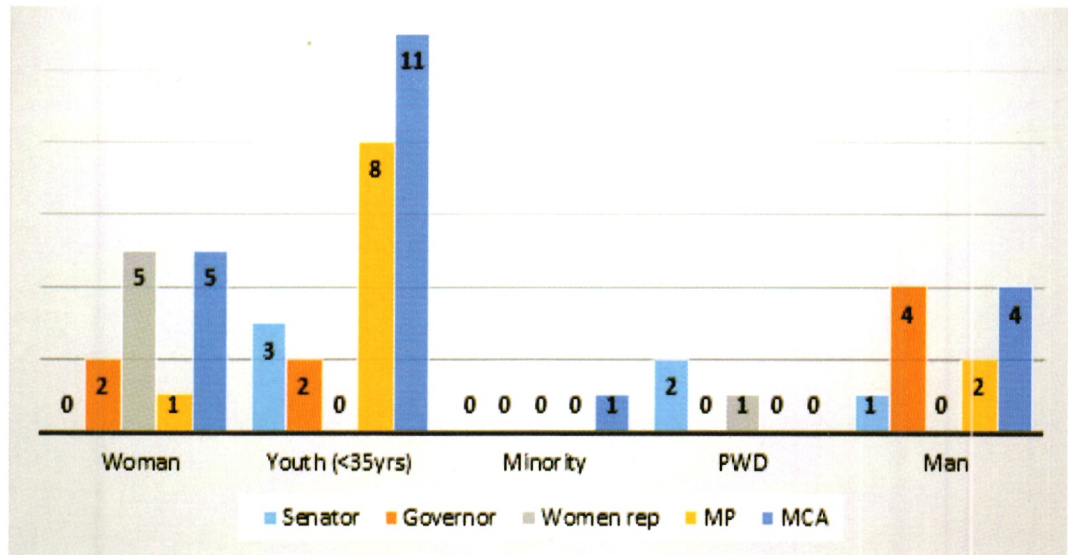


Figure 3.1 also shows that 26.6 percent of special interest groups observed to have attended voter verification were women, compared to 25.1 percent and 23.3 percent who were youth and the elderly respectively. Of the instances observed, 26.5 percent reported special interest groups' names missing from the register. Of the 4,216 instances of candidates reaching out to special interest groups, 32.3 percent of these targeted the youth, while women and the elderly were targeted by 25.3 percent and 24.7 percent respectively. Thus, a greater share of the youth were targeted by campaigners than the share turning up for verification; but the shares were comparable for the other special interest groups.

### 3.4 Campaign Financing for Special Interest Groups

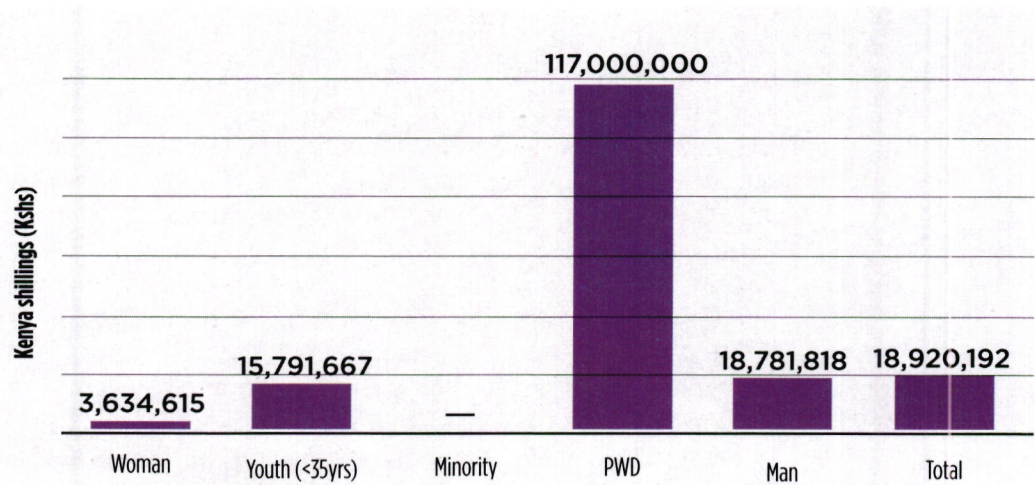
Section 3.2 highlighted some of the financing needs of prospective candidates at the party primaries level that suggested special interest groups higher risk of exclusion through financing constraints. On financing of election campaigns, observers and monitors were asked to identify special interest group candidates and the electoral seats they were targeting, with a view to assessing capacity to finance their endeavours. While no special interest group members offered themselves for the presidential contest, the 52 special interest groups observed were distributed across the other five contested electoral positions, as reflected in Figure 3.2. Of the 13 women candidates observed, none entered the senatorial race, but two contested for the governorship. The majority of youths observed contested for the MCA (11) and MNA (11) positions. The sole minority group candidate observed contested the MCA position. The PWDs were distributed across the senatorial race (2) and the County Woman Representative position (1).

**Figure 3.2** The distribution of observed SIGs across electoral seats



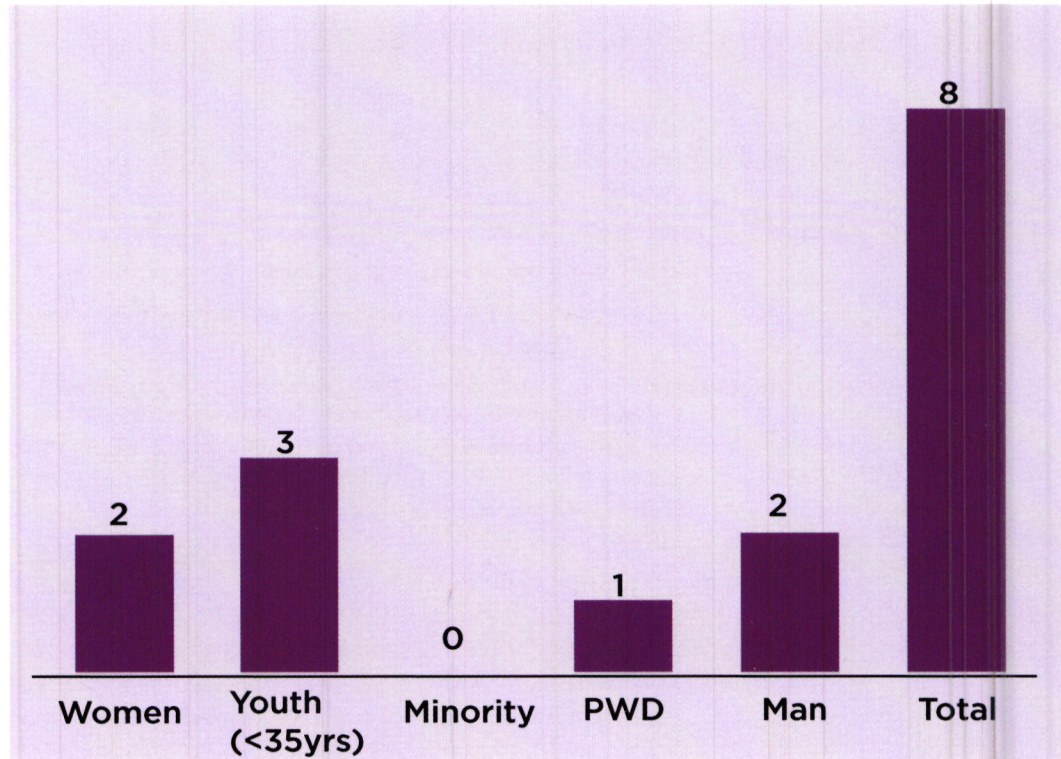
When asked for campaign financing information, candidates were reluctant to divulge, resulting in various arbitrarily distributed gaps in the data. The non-responses seemed to depend on what aspect of financing information a particular candidate considered sensitive. However, data obtained from the 52 special interest group aspirants, excluding the sole minority candidate, enabled an estimation of average budgets as reflected in Figure 3.2. The IEBC and other stakeholders should take the exceptionally high KSh117 million average PWDs budget seriously: it offers a useful indicator of the cost of inclusion. The high PWDs average compared to the special interest groups average of KSh18.8 million also underscores the comparatively low representation of PWDs among prospective candidates.

**Figure 3.3:** Estimated average budgets of special interest group candidates (KSh)



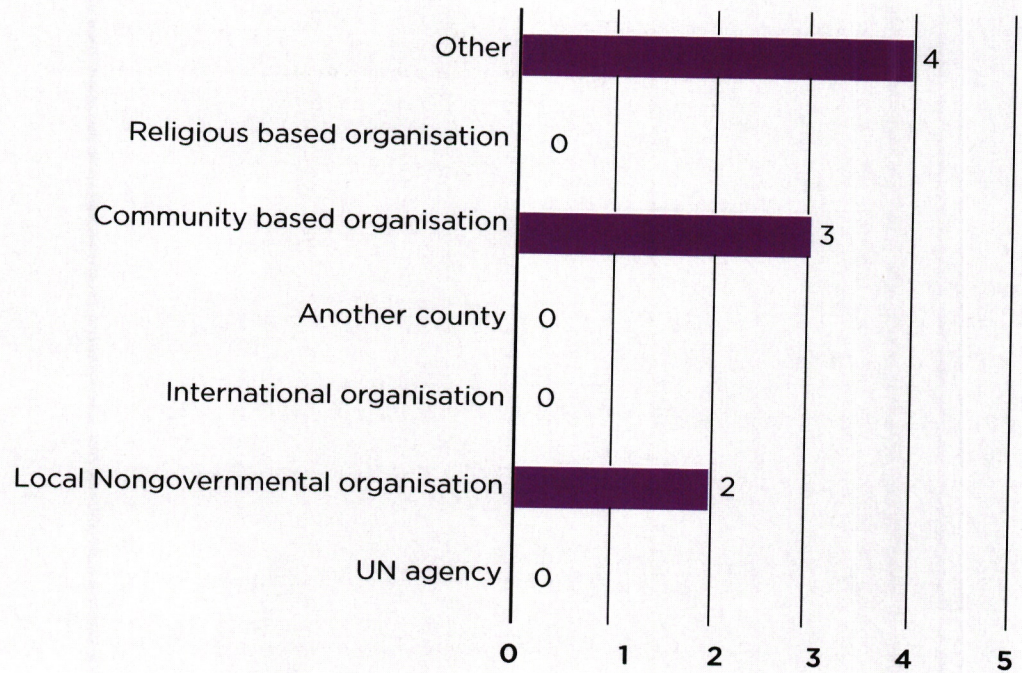
When asked if they had received any campaign funding from any entity or agency, only eight (8) special interest group candidates admitted having benefitted as reflected in Figure 3.4. The only candidate who responded to the inquiry into who provided the funding, a PWD, nonetheless declined to divulge that information.

**Figure 3.4**  
Distribution  
of choices of  
campaign venues  
(%)



However, when the candidates were asked merely for the category of agency that had provided financing, nine candidates were forthcoming, as shown in Figure 3.5. Local NGOs had funded three candidates, while community-based organisations had funded two, with another four getting money from unspecified sources. That none of the SIGs identified their political party as a funding source suggests that parties do not typically provide, which is consistent with the fees emphasised in Table 3.3. The observers were, therefore, unable to get an idea of how much money the candidates had set aside for the various campaign activities, including (i) meetings, (ii) agents, (iii) IEC materials, (iv) transport, (v) fees, (vi) security, (vii) litigation, and (viii) others. When asked what amount or share of their budgets was unfunded, 10 of the 12 special interest group candidates responding – including three women, three youths and a single PWD – declared they could not estimate the amount. However, one youth indicated the unfunded budget to be equal to the entire budget, suggesting nothing in the campaign war chest.

**Figure 3.5:**  
Categories  
of agencies  
financing SIG  
campaigns



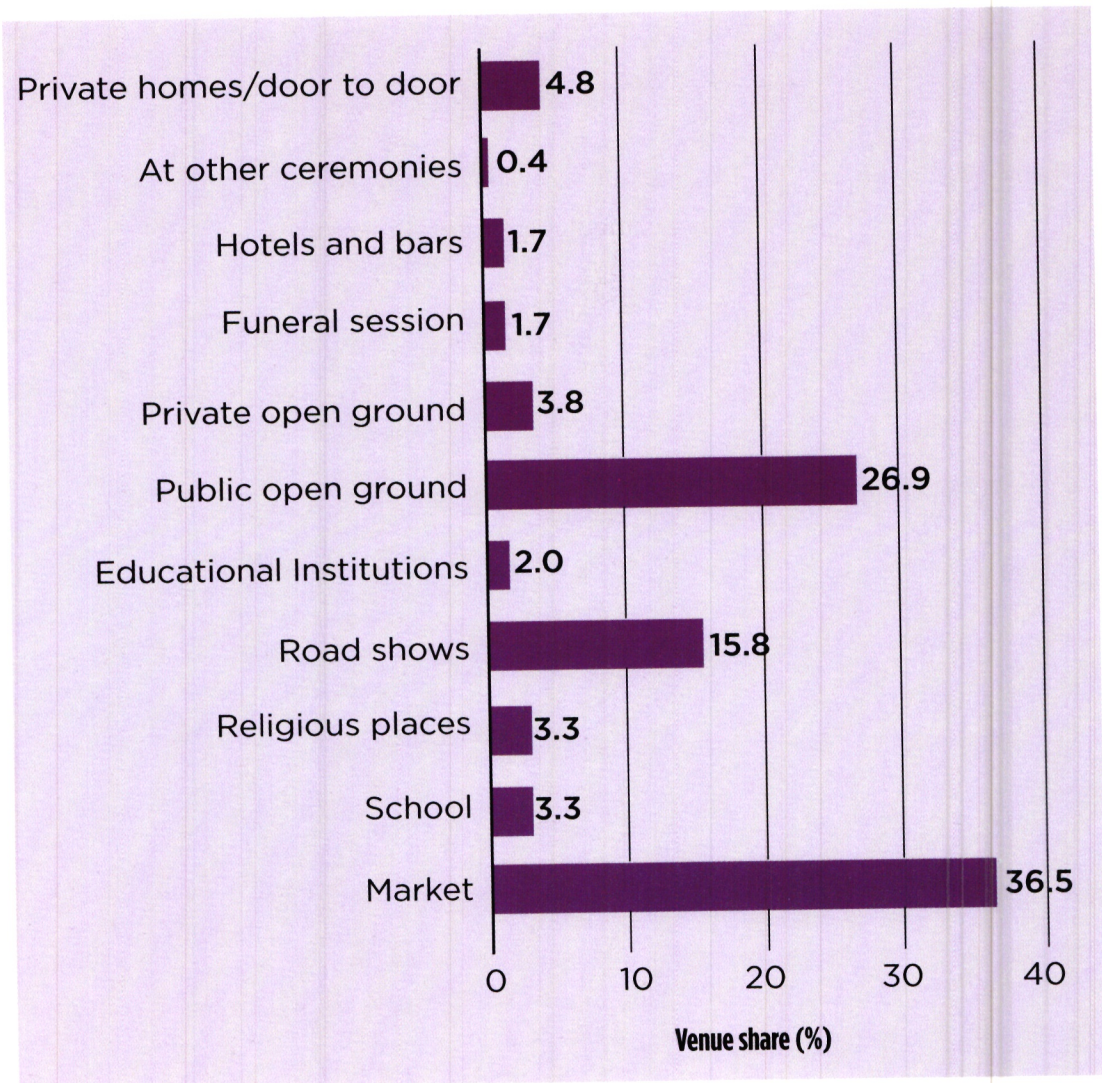
### 3.5 Campaign Activities

The submission of campaign calendars by party and independent candidates is useful for ensuring that the politicians' scheduled activities do not clash or generate conflict. However, it is also a useful means of promoting informed choice among voters who would have heard the respective candidates' promised agenda. The observers found that the requirement had been fulfilled by 85.6 percent of the 1,945 candidates reviewed.

#### 3.5.1 Campaign venues

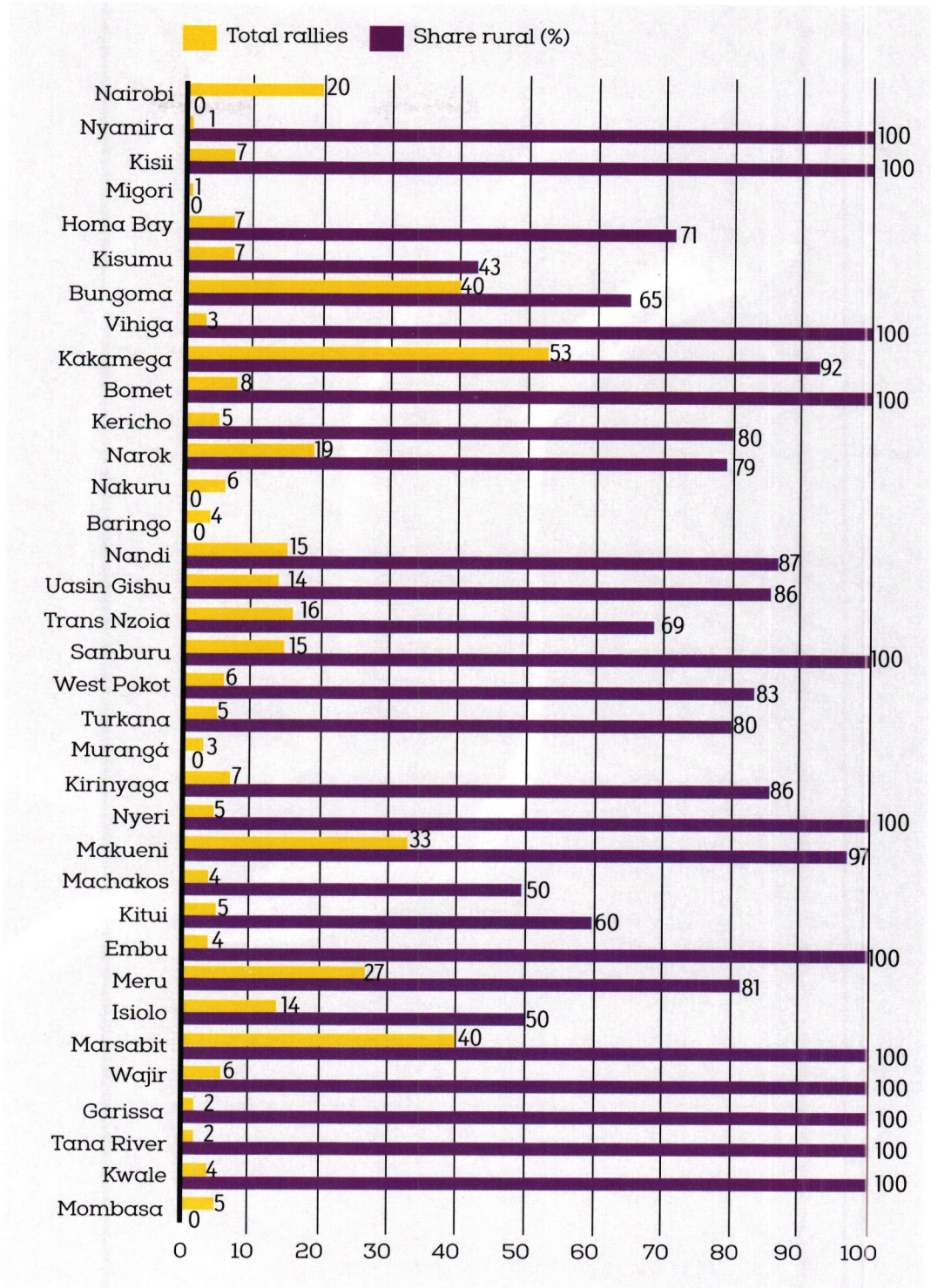
The election observers covered 1,987 randomly distributed types of campaign venues, as reflected in Figure 3.6. The dominant campaign venues monitored were market places, public open grounds and road shows, with respective shares of the totals monitored being 36.5 percent, 26.9 percent and 15.8 percent respectively, accounting for nearly 80 percent of all the venues monitored. Interestingly, politicians also campaigned in schools (3.3%), but the share of campaigns at funerals was a modest 1.7 percent.

**Figure 3.6**  
Distribution  
of choices of  
campaign  
venues (%)



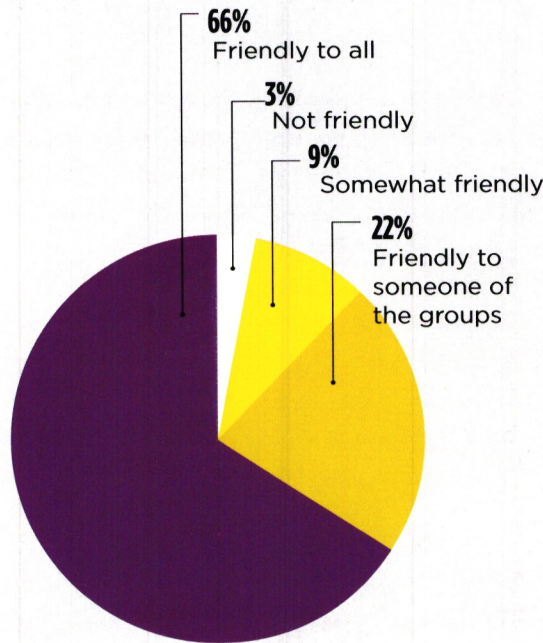
A large majority of the campaign rallies across the counties (76.5%) occurred in rural venues, as shown in Figure 3.7. The rural dominance is understandable given the preponderant rural distribution of the Kenyan population. The chart shows Nairobi and Mombasa respectively had 20 and five rallies which were all urban-based. Conversely, the one and seven rallies of Nyamira and Kisii counties respectively were all rural-based.

**Figure 3.7:**  
Rural/urban  
distribution of  
campaign venues  
for selected  
counties



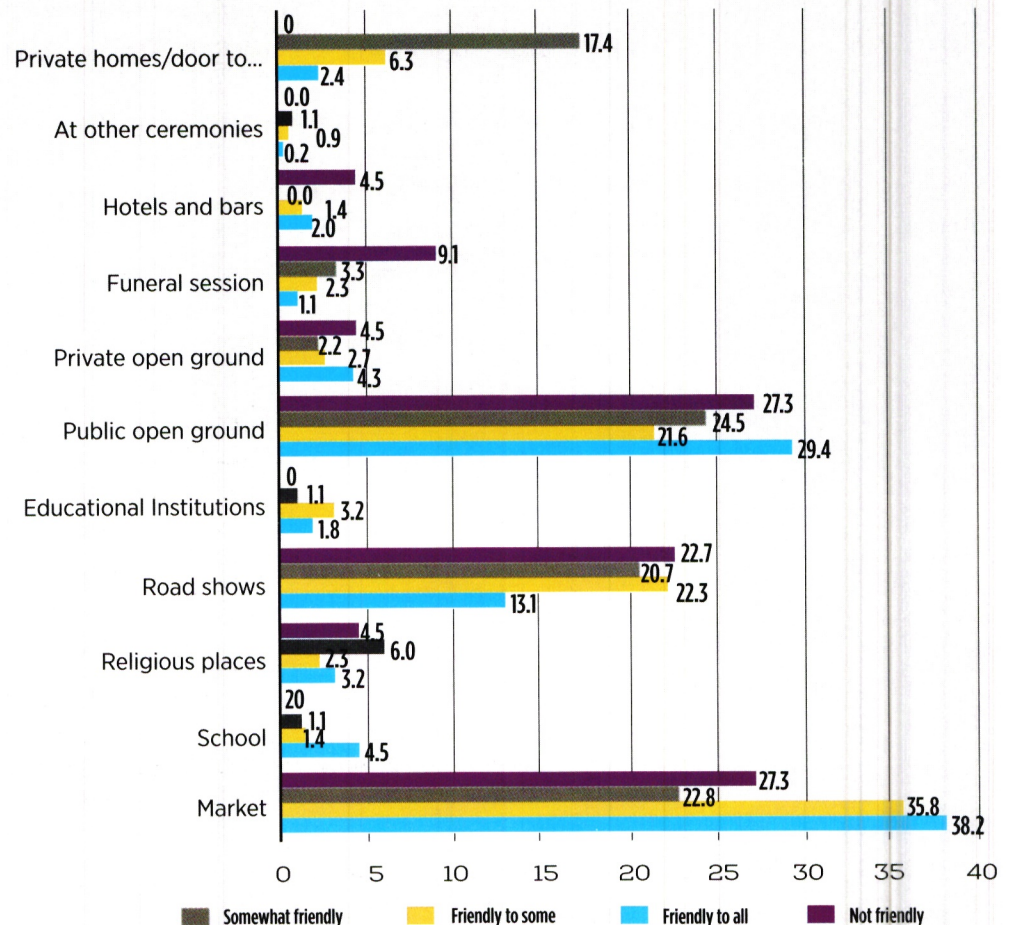
Observers were required to assess the 'friendliness of the venue to candidates and voters, especially some special interest groups'. Such friendliness is important if special interest groups are to participate comfortably in the political process. Figure 3.8 shows that overall, observers adjudged 66.2 percent of all the venues to be 'friendly to all', while 22 percent were 'friendly to some of the groups'. Conversely, a modest 2.2 percent was adjudged as 'not friendly'.

**Figure 3.8:**  
Overall  
friendliness of  
campaign rally  
venues



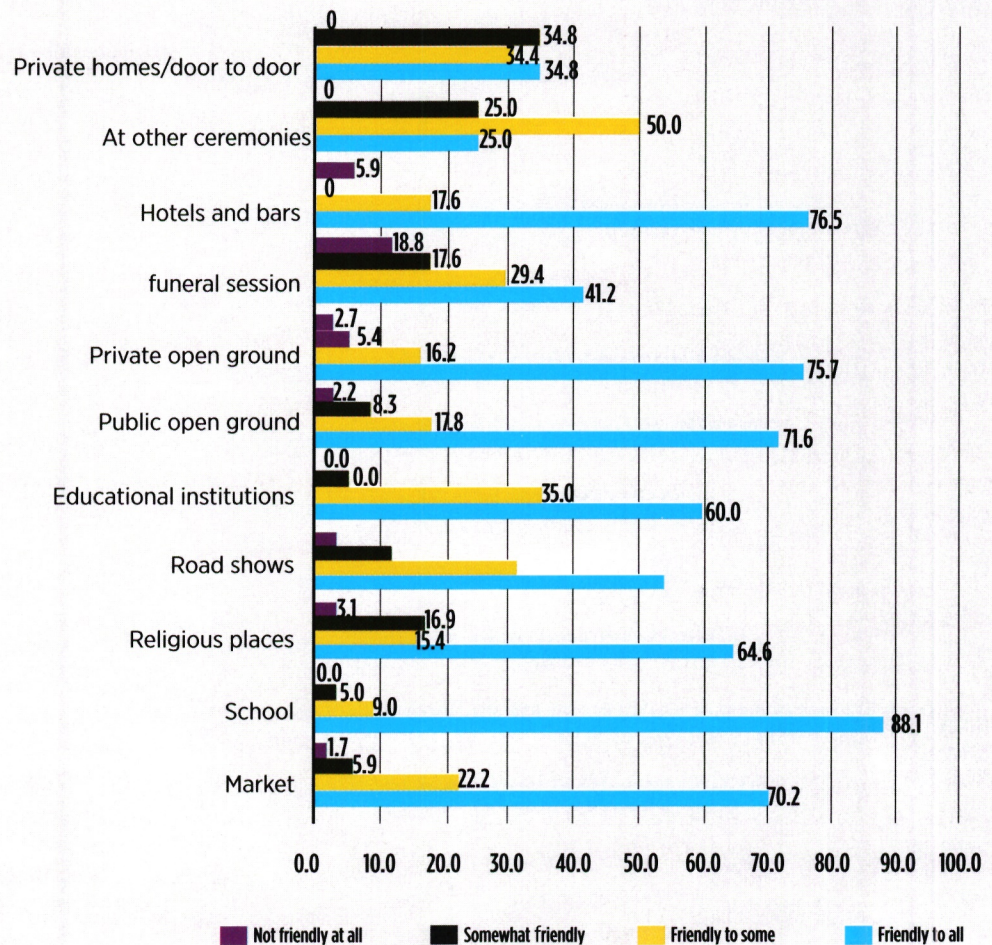
As reflected in Figure 3.9, the market accounted for 38.2 percent of the venues adjudged 'friendly to all', with the public open ground and road shows respectively accounting for 29.4 percent and 13.1 percent. But these three venue types also accounted for the largest shares adjudged by the observers 'not friendly', with respective rates of 27.3, 27.3 and 22.7 percent.

**Figure 3.9:** User  
friendliness of  
campaign rally  
venues



The observers' information also allowed an assessment of the levels of friendliness of each individual venue, with the findings shown in Figure 3.10. The data shows that 70.2 percent of the observers considered the market venue 'friendly to all', compared to 22.2 percent who considered it 'friendly to some'. While no observer considered the private homes or door-to-door 'not friendly', the venue had comparatively balanced perception rates across the other three levels of satisfaction. It is important to note that eight of the 11 venues had a 'friendly to all' rating above 50 percent.

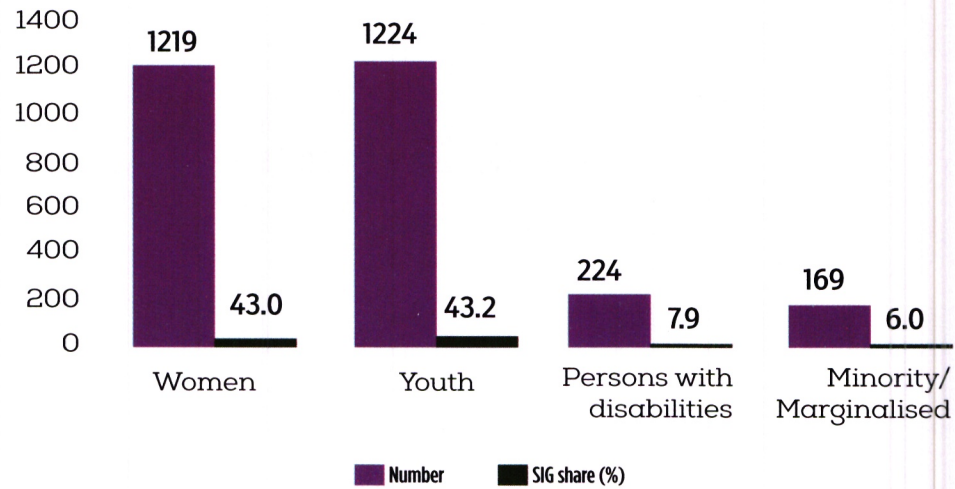
**Figure 3.10:**  
Levels of friendliness of respective venues



### 3.5.2 Campaign rallies, including security and media

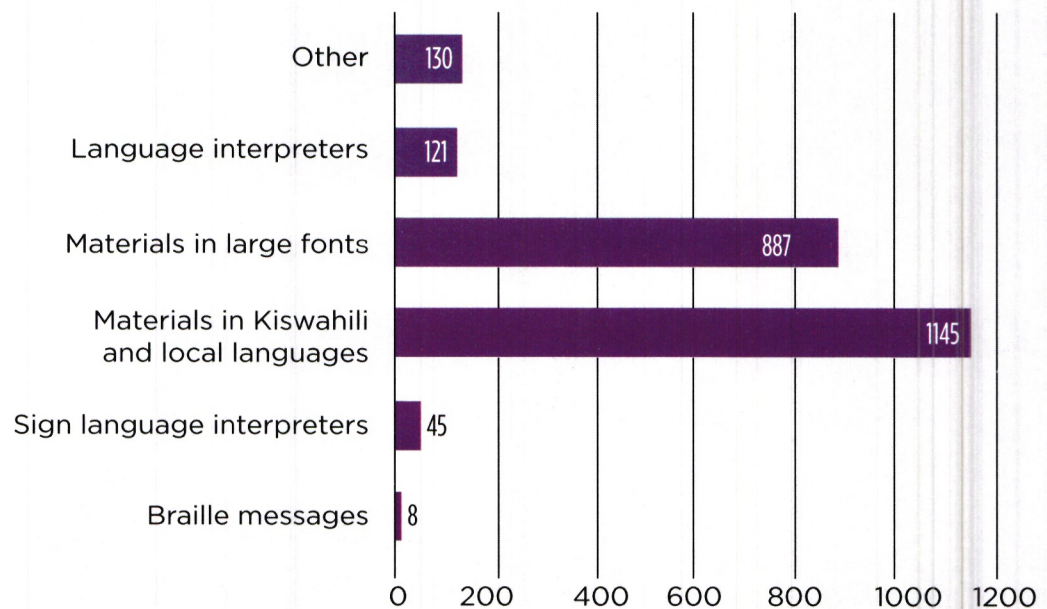
Of the 2,836 campaign rallies that observers attended, the presence of special interest groups was noted as reflected in Figure 3.11. Women and youth were present in 43 percent of the rallies attended; but the presence of PWDs, as well as minority and marginalised groups was modest.

**Figure 3.11:**  
Presence of special interest groups at campaign rallies



Special interest group categories have varied difficulties in participating effectively in campaign meetings, obliging rally organisers to provide remedial resources. Election observers, therefore, reviewed the extent to which rally organisation reflected an awareness of such constraints to special interest groups participation. For the 2,336 campaign venues reviewed, Figure 3.12 shows that 1,145 had materials written in Kiswahili and local languages, while 887 had material in large fonts for ease of legibility. A small 45 instances reflected attention to special interest groups with hearing impairment; but the needs of the visually impaired were hardly considered.

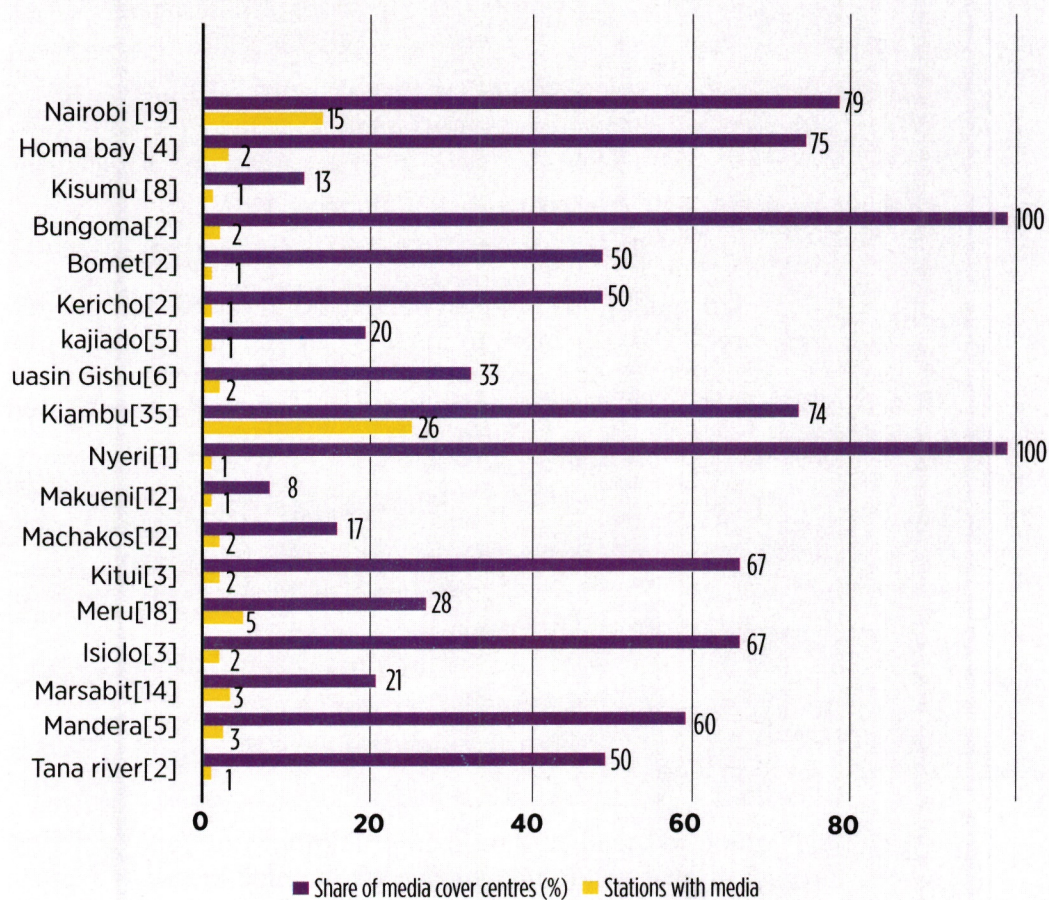
**Figure 3.12:**  
Availability of communication assistance at rallies



Observers reported the presence of security officials in only 64.1 percent of the 1,961 venues reviewed on this aspect of rally organisation. Observers also reported extensive media presence in venues, this being as a result of proliferation of media outlets since liberalisation of licensing in the 1990s and digital migration in 2015. The observers filed 1,465 reports of media presence at polling stations, with a dominant 44.5 percent being radio journalists while 29.4 were TV journalists. The international media accounted for 2.6 percent of the reports. However, 922 observers – 38.9 percent of the whole group – reported no media presence.

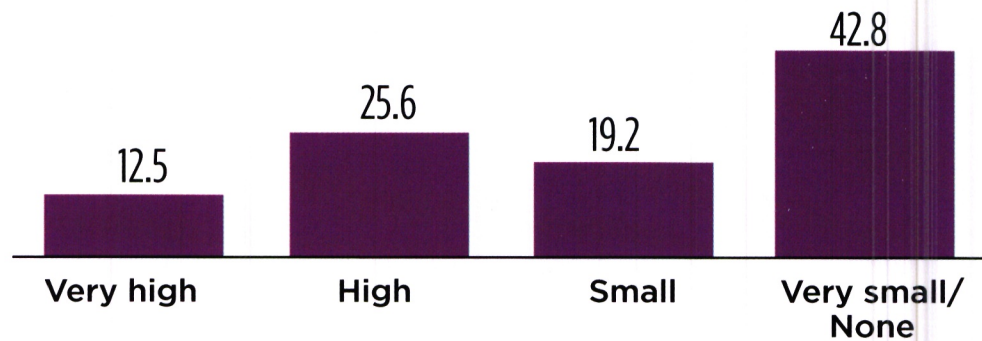
Media presence was distributed across the counties as reflected in Figure 3.13. Against the name of each of the 18 counties reported on, is the number of polling stations monitored: one bar shows the number of stations with a media presence, while the other shows a share of the stations monitored. The observers monitored 19 stations in Nairobi, 15 of which had 79 percent presence.

**Figure 3.13:**  
County  
distribution of  
media presence  
in stations



Observers were asked to assess the media's attention to special interest groups; and the returns suggest the latter are not as newsworthy as other actors in the electoral context. As Figure 3.14 shows, 43 percent of the special interest groups got 'very small or no' attention, compared to 13 percent and 26 percent who respectively got 'very high' or 'high' attention.

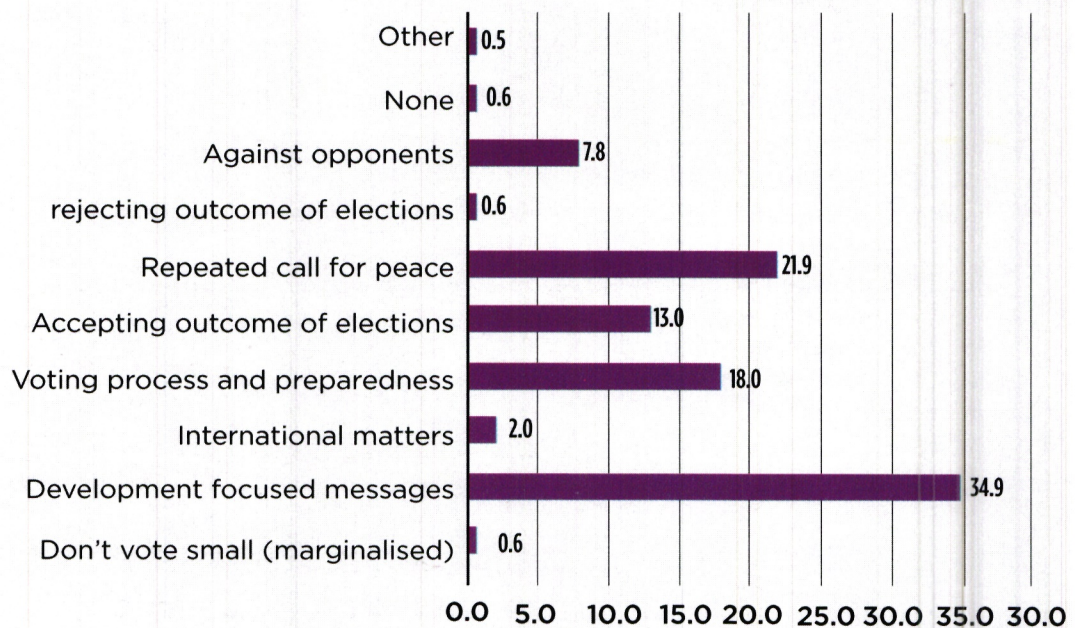
**Figure 3.14:**  
Media attention  
to SIGs



### 3.5.3 Campaign messages

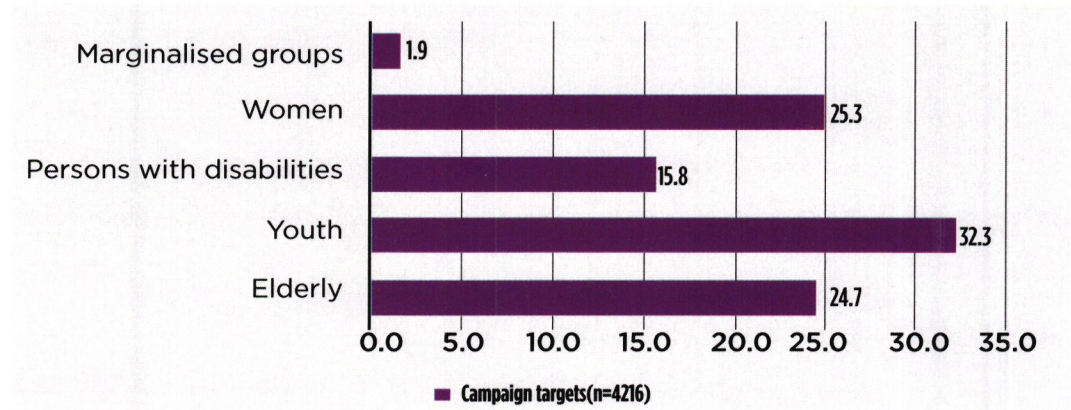
The observers' assessments of the key messages during the campaign rallies are reflected in Figure 3.15. The dominant theme was development (34.9%), followed by calls for peace (21.9%) and civic education on voting preparedness (18%). Notably, only a modest 7.8 percent of the speakers' messages were directed at opposing individuals or parties, suggesting the message on mutual tolerance was making an impact among the candidates.

**Figure 3.15:** Key  
messages during  
campaign rallies



Inclusion requires that campaigners and their agents package their messages to suit different individuals and groups including special interest group categories. Observers estimated that among the special interest groups, 32.3 percent of the messages targeted the youth while about 25 percent each targeted women and the elderly, as reflected in Figure 3.16. It is heartening that the share of messages targeting PWDs (15.8%) is a greater share than the five percent (5%) share of opportunities the Constitution sets aside for them.

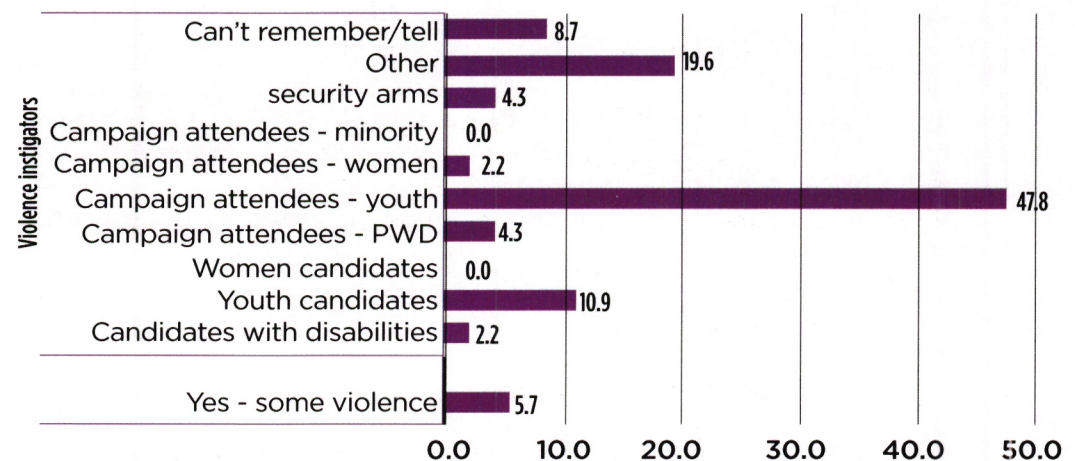
**Figure 3.16:**  
Rates at which  
campaigns and  
campaigners  
targeted SIGs



### 3.5.4 Violence and malpractices: instigators and victims

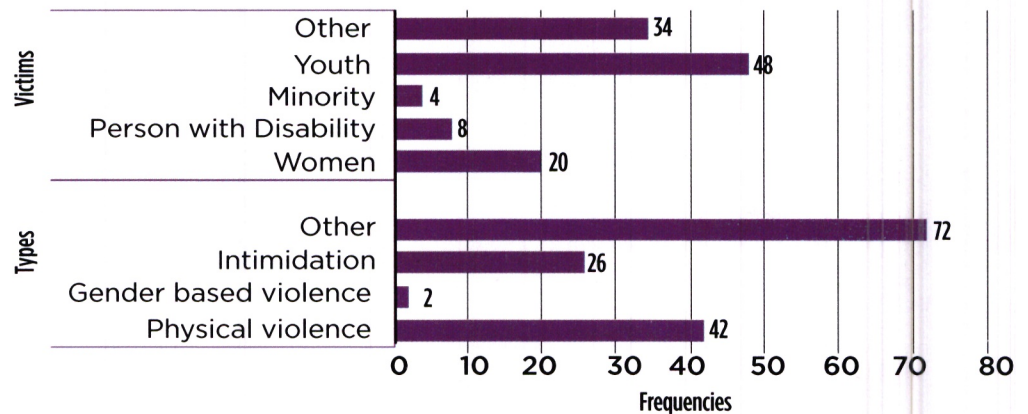
Violence during electioneering is a crime under the Electoral Offences Act. However, even if it is not detected or acted on, it undermines the openness, transparency and fairness of the electoral process. Consequently, election observers were required to record violence instances; and 92 reports were received from the 183 reporting monitors, distributed as shown in Figure 3.17. A comparatively modest 5.7 percent share of the observers reported witnessing violence, the greatest instigators of nearly half the violence reported being 'campaign attendees – youth' (47.8%), as distinct from that instigated by 'youth candidates' (10.9%). Notably, 'campaign attendees – PWDs' also instigated violence (4.3%) again as distinct from 'candidates with disabilities' (2.2%). A further notable feature of the violence was that 4.3 percent of it was instigated by 'security agencies'.

**Figure 3.17:**  
Categories  
of violence  
instigators



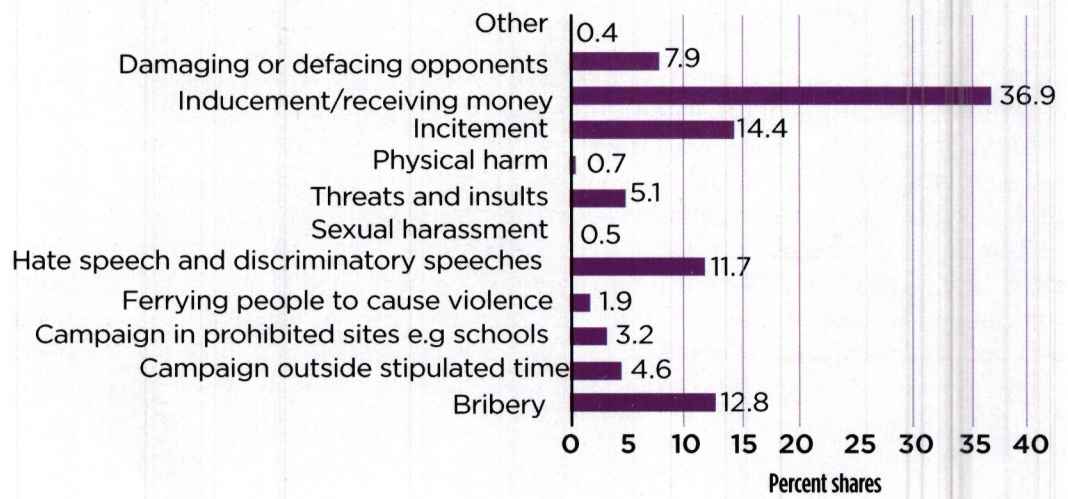
The data in Figure 3.18 shows that the largest group of victims of the reported violent incidents were the youth with 48 of the reported 118 instances, which together with the information in Figure 3.13, suggests there was a lot of youth-on-youth violence. While there were other unspecified victims – 34 instances – women were also quite extensively targeted, with 20 instances reported. The data collected did not provide adequate categories of violence, which is why the dominant type of violence was ‘other’, accounting for about 50 percent of the instances reported. However, the figure also shows the survey specifically identified 42 instances of physical violence and 26 of intimidation. Security officers were called to about 68 percent of the violence incidents.

**Figure 3.18:**  
Violence types  
and their victims



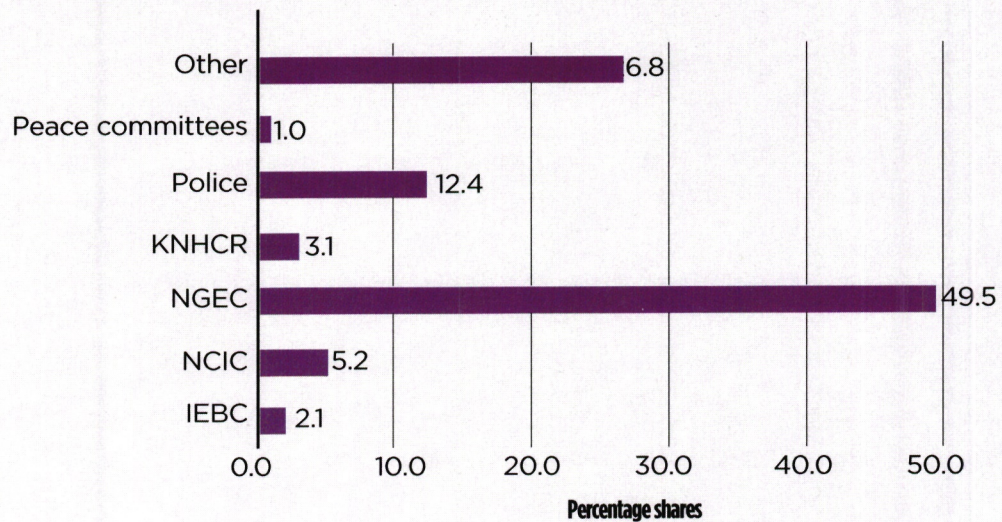
Of the 2,141 reports received on campaign malpractices, nearly half of them – 1,000 – observed no malpractices. Among the observed malpractices, just over one-third (36.9%) involved inducement or receiving money, i.e. corruption (Figure 3.19). Other prominent malpractices included incitement (to violence) (14.4%), bribery (12.8%), hate or discriminatory speeches (11.7%), and damaging or defacing opponents’ campaign materials (7.9%)

**Figure 3.19:**  
Distribution of  
malpractices  
during rallies

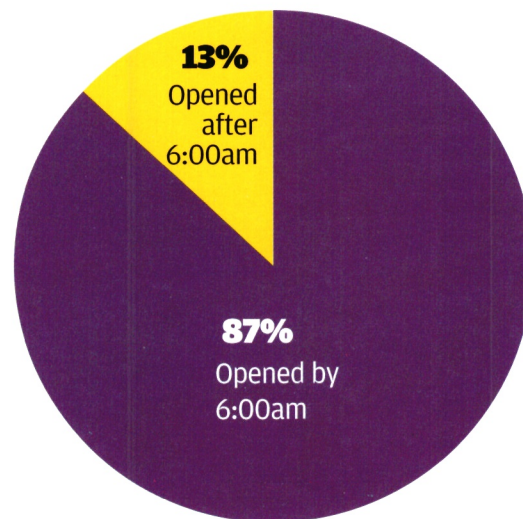


Of the 684 observations where monitors responded on the reporting of malpractices to the authorities, nearly 70 percent of the monitors – 454 observations – could not tell to whom such reports were made. Of the 194 instances indicating to whom malpractices were reported, 49.5 percent cited the NGE<sup>26</sup>, as shown in Figure 3.20. The police received 12.4 percent of the reports, while 26.8 percent of them were to unspecified individuals or agencies.

**Figure 3.20:**  
Agencies to which malpractices were reported



**Figure 3.21:**  
Polling stations opened by 6am



### 3.6 Monitoring Polling

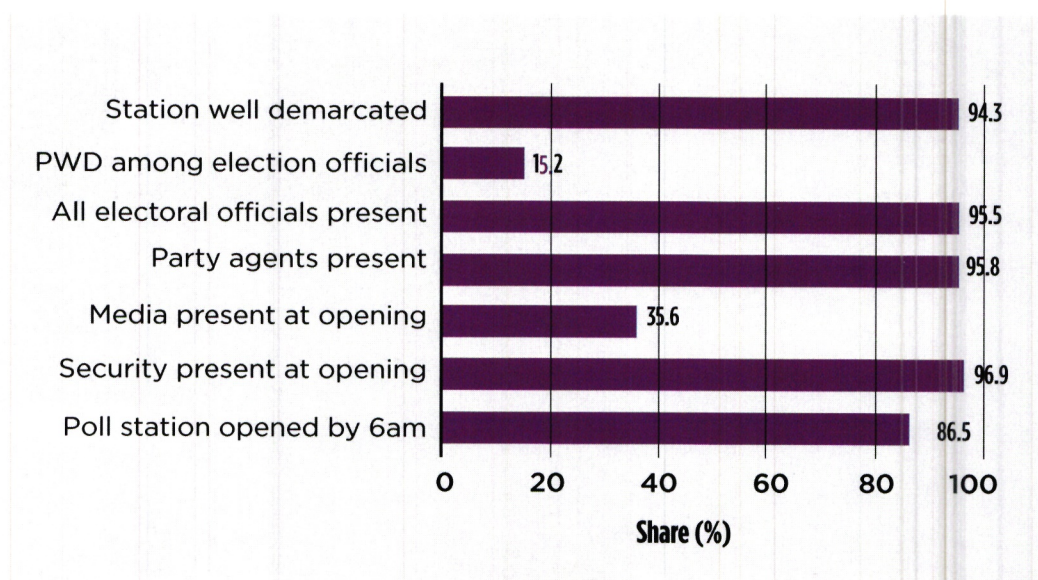
#### 3.6.1 Pre-voting preparedness

The efficiency of the balloting exercise depends on certain requirements being in place before the activity begins. Of course, the most important requirement is that the station is opened on time, as specified by the law. About 87 percent of the election observers reported that the stations had opened by 6:00am, as reflected in Figure 3.21, meaning that 13 percent of the stations opened late. However, the observers did not tabulate reasons for the delays.

<sup>26</sup> NGE's disproportionately large share of reports made should be viewed against the agency's 70% share of all observers.

As Figure 3.22 shows, 96.9 percent of the stations had security at the opening time and media presence stood at a modest 35.6 percent. The observers reported that election officials were present at opening in 95.5 percent of the stations observed; so the exercise would have been delayed where officials had for whatever reason not arrived by the due opening time. Party agents are important for transparency in the management of the electoral process, but especially so for balloting, as they can deter any mischief over ballots, including the risk of collusion between electoral officials and the candidates' agents. It is significant, therefore, that agents were present at opening time in 95.8 percent of the instances observed. This means that in about four (4) percent of the cases, the absence of agents exposed their candidates to the risk of tampered ballot papers.

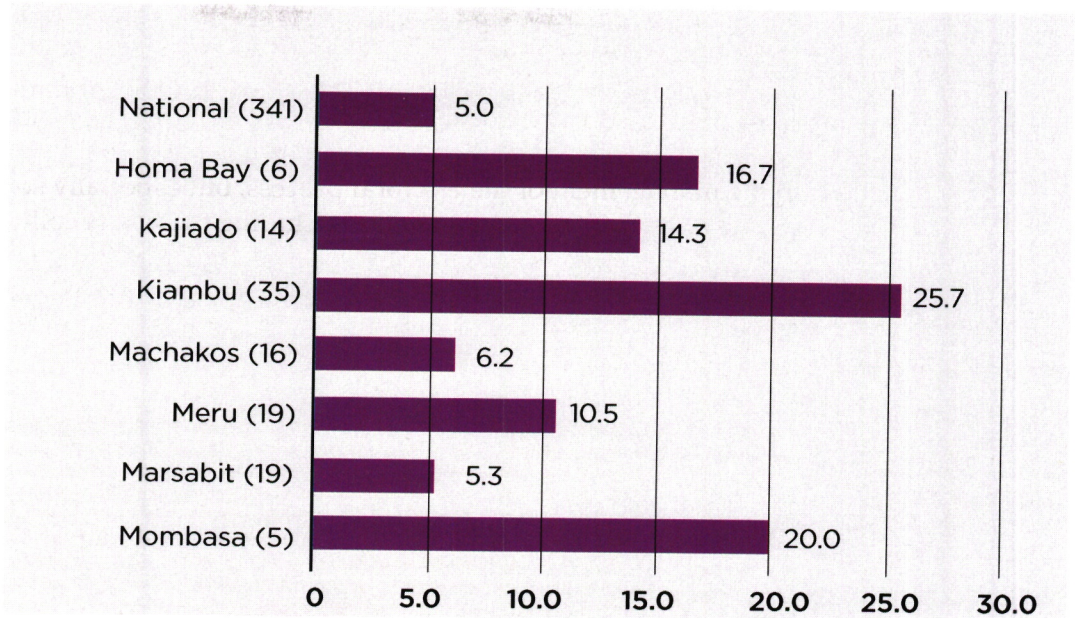
**Figure 3.22:**  
Preparedness of polling station at opening time



Good demarcation of the polling station is necessary for effective movement of voters; and observers adjudged this to be the case in 94.3 percent of the stations observed. While the presence of special interest groups among officials at voter verification sites had reportedly been high at 83.5 percent, people with disabilities' presence among the officials at polling stations was much smaller at 15.2 percent. This most probably reflected the underlying tensions anticipated at this stage of the electoral cycle. However, this share of PWDs' opportunities was considerably higher than the five (5) percent inclusion threshold set by the Constitution.

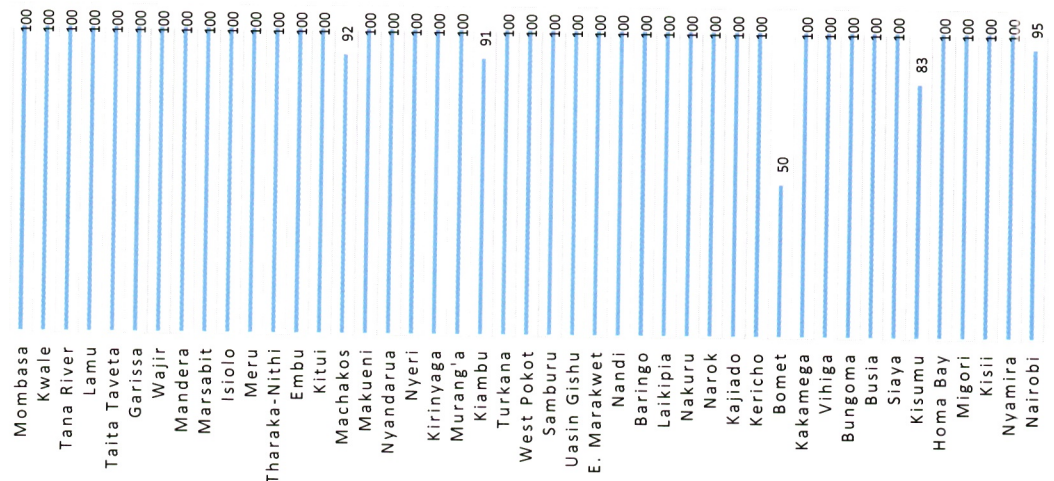
Across the country, stations in all but seven counties were well demarcated. The performance in the seven counties is as presented in Figure 3.23. The data show that compared to a national shortfall of five (5) percent, Kiambu's 25.7 percent had the highest share of county stations that were not well demarcated followed by Mombasa's 20 percent.

**Figure 3.23:**  
County stations  
that are not well  
demarcated



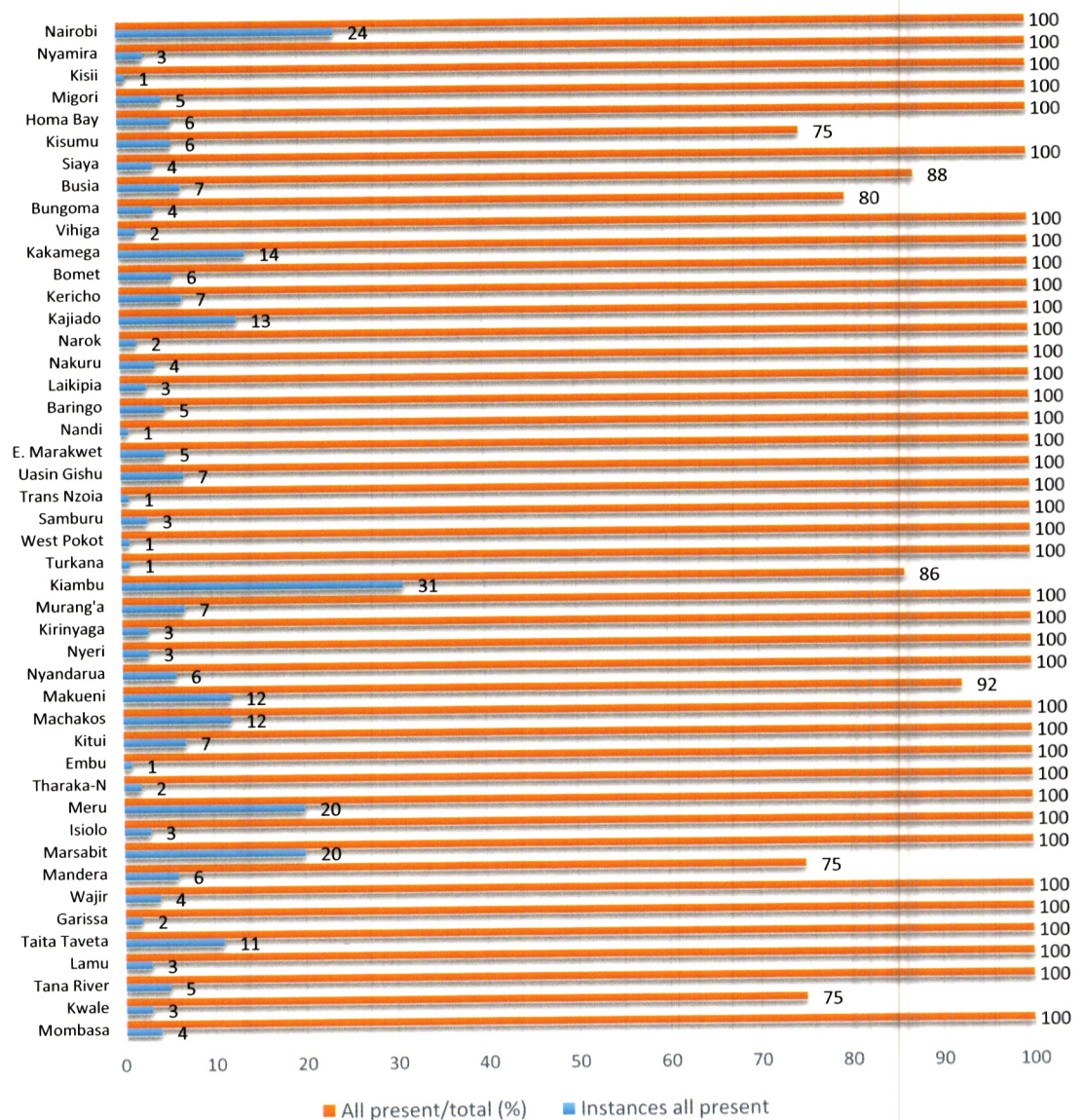
The distribution of party agents at the opening time across the sampled 45 counties reported on is reflected in Figure 3.24. The observers reported the full presence of party agents in all counties except five (5), for which Bomet scored worst with a presence of 50 percent of the agents at the opening time, while Kisumu and Nairobi scored 83 and 95 percent respectively. The counties for which the observers reported no party agents at the opening time were Kilifi and Trans Nzoia.

**Figure 3.24:**  
County  
distribution of  
the presence of  
party agents at  
poll opening



While electoral agents are important for free and fair elections from a candidate's perspective, electoral officials are crucial for the conduct of any election, whether free and fair or not. Electoral officials are an important part of the process as the ballot papers and boxes of which they are the custodians. Observers found that all electoral officials were present in 300 of the 313 instances reviewed, Kilifi being among the counties whose stations lacked some officials. However, distribution of present officials varied across the counties as well as polling centres, as shown in Figure 3.25. For example, all officials were present in the Nairobi and Kisii stations reviewed, but this amounted to 24 stations in Nairobi compared to two (2) stations in Kisii.

**Figure 3.25:**  
County  
distribution of  
electoral officials



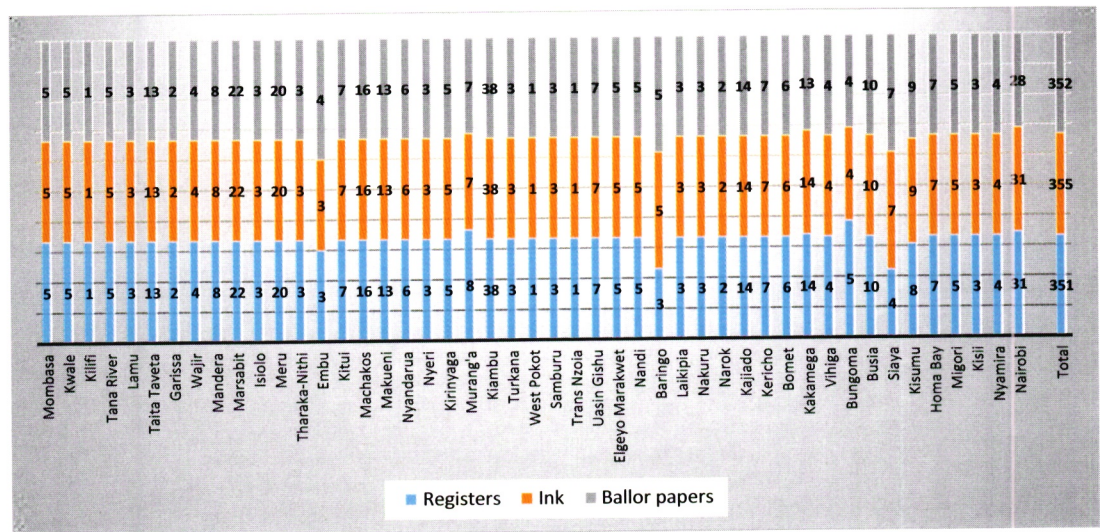
Among the Commission’s mandates is the monitoring of adherence to Article 54 (2), which provides that at least five (5) percent of public opportunities be set aside for PWDs. While IEBC should strive to attain this threshold among its regular staff, an exercise like the General Election, which recruits temporary staff, provides a useful opportunity to engage PWDs; hence NGEC’s interest in seeing how the electoral agency used the opportunity.

The observers found 49 instances of PWDs among the 335 instances observed – a 15 percent share. However, observers also reported the absence of any PWDs in the polling centres of 28 of the counties monitored. The observers reported wide variations among PWDs in relation to the share of electoral officials across counties. For example, Kiambu had 11 instances of PWDs among electoral officials, of the 33 centres observed – a rate of 33 percent.

Poll preparedness also requires the availability of various aids, such as those facilitating the effective participation of various special interest group categories. The observers reported varied, but minimal distribution of services to PWDs (braille materials and sign language interpreters) across the counties, which suggests that PWDs were largely denied independence in casting their ballots.

The availability of an electronic voter register, ballot papers<sup>27</sup> and indelible ink was comparable for 327 stations observed; but in counties like Siaya and Baringo, there were evident disparities in availability, as seen in Figure 3.26, meaning stations did not have all these three (3) pillars of an election exercise.

**Figure 3.26:**  
County availability of various electoral resources

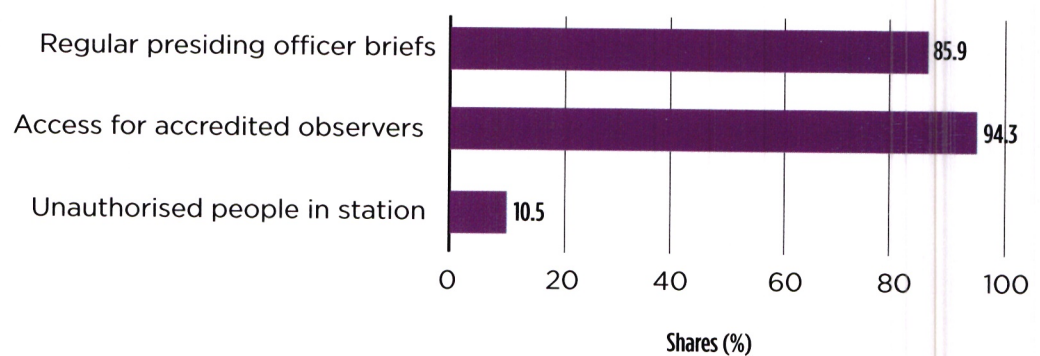


<sup>27</sup> Of course, the mere sighting of ballot papers neither confirms that they are the correct ones for the polling station, nor that they are adequate for the number of voters registered at that polling station.

Given the difficulties that could arise over delivering a full set of materials to all polling stations, it is not surprising that some materials might have been missing at the opening of a polling centre, resulting in the need to make deliveries during the day. Yet, observers reported late deliveries in only 23 of 286 instances investigated – 8.7 percent share. Consequently, a large number of stations either did without such materials or improvised.

The law requires that poll officials ensure only authorised people are in the polling centre, and consequently, they allowed access to accredited observers in 93.4 percent of the stations reviewed, as reflected in Figure 3.27. However, observers noted the presence of unauthorised individuals in 10.5 percent of the stations reviewed. In 85.9 percent of the stations, presiding officers provided regular briefings as required by law.

**Figure 3.27: The management of polling stations**



### 3.6.2 Status of polling stations

As reflected in Figure 3.28, observers adjudged 93.5 percent of the polling stations to have ample space to accommodate the movement of voters. The law requires that voters have privacy when selecting their candidate of choice on the ballot paper. This means polling stations should have booths, which was the case in 95.7 percent instances. Stations should also be designed with potentially diverse needs of different voters in mind; and 86.5 percent of the observers reported that the stations were considerate to the needs of the elderly and people with disabilities. However, women faced challenges in 11.9 percent of the stations reviewed, while intimidation of voters occurred in 3.9 percent of the stations. Figure 3.28 also shows there were violations of electoral laws: campaign posters were evident in 8.9 percent of the stations, while active campaigning continued in 7.2 percent stations, which was contrary to the law.

**Figure 3.28:**  
Conditions  
at polling  
stations

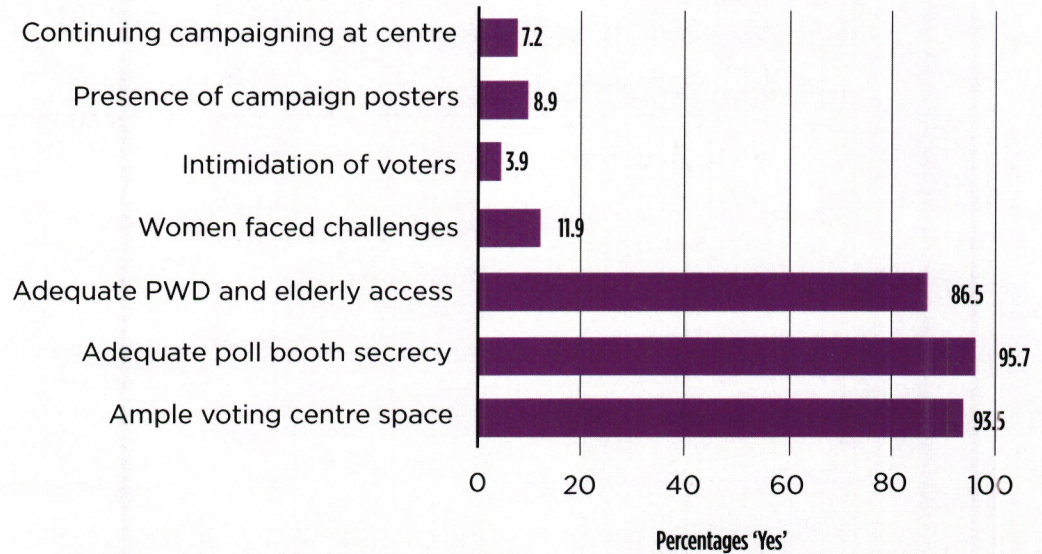
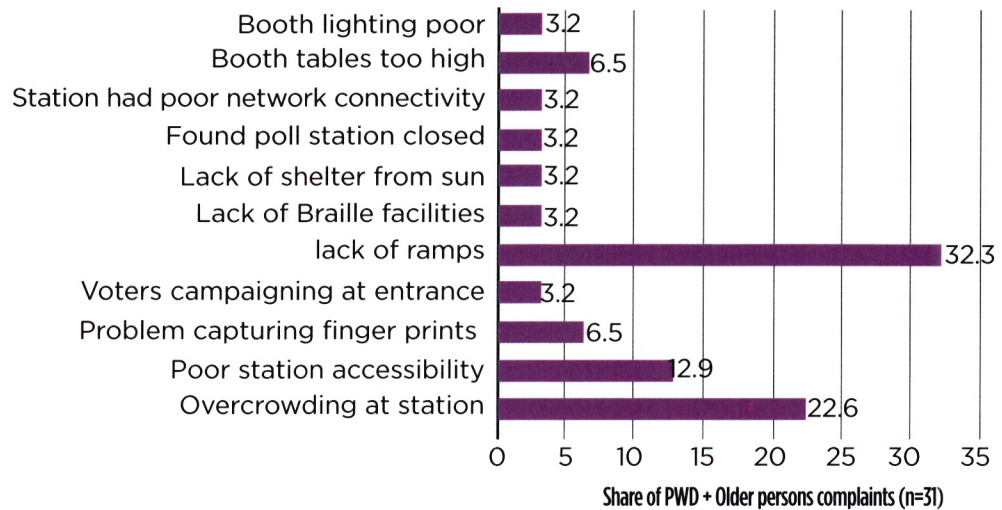


Figure 3.29 captures the distribution of complaints raised by PWDs and older persons in relation to polling stations. The dominant complaint (32.3%) was lack of ramps for people with physical challenges. While 93.5 percent of stations had been adjudged to have ample space, overcrowding at stations accounted for 22.6 percent of all complaints. Other complaints included poor access to the stations (12.9%), excessive height of booth tables and problematic fingerprint capture, each of the latter two accounting for 6.5 percent of the complaints. A single complaint was over finding the polling station closed but the time was not reported.

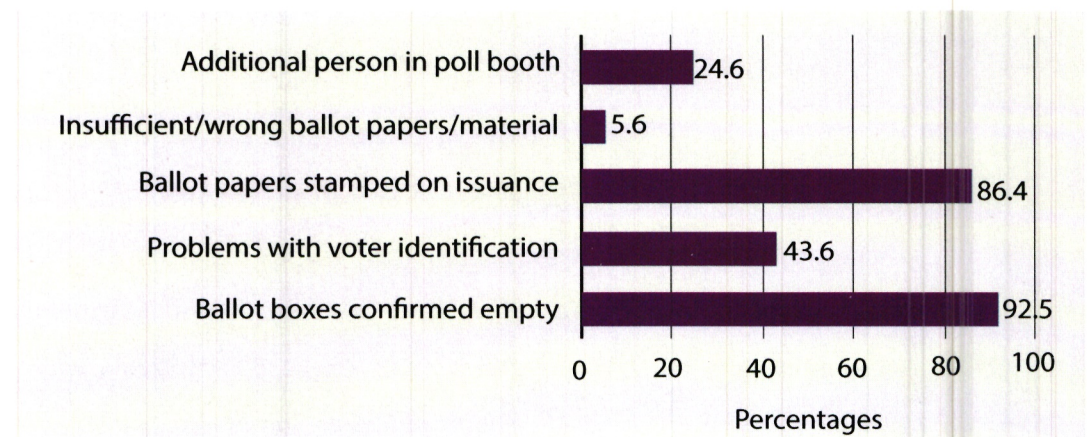
**Figure 3.29:**  
Distribution of  
complaints by  
PWDS and older  
persons



### 3.6.3 Voting procedures

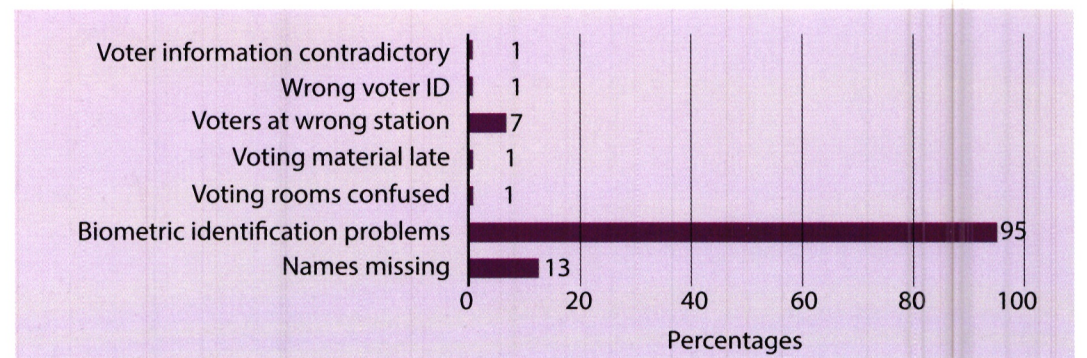
Given the prevalent risk of electoral rigging through advanced stuffing of ballots into boxes ahead of the *bona fide* voting exercise, it is important at commencement, that poll officials confirm to candidates' agents that the boxes are empty. This confirmation was reported by 92.5 percent of the observers, as reflected in Figure 3.30. A further security provision is that ballot papers should have an IEBC stamp to confirm their authenticity, which was noted by 86.4 percent of the observers<sup>28</sup>. Nearly one-quarter of the observers (24.6%) also noted the presence of an additional person in the polling booths.

**Figure 3.30:**  
Monitoring the  
polling process



The identification of voters using fingerprints, which had been listed among the problems encountered by older persons, was flagged by 43.6 percent of the observers, as reflected in Figure 3.30. Specifically across the special interest group categories, the observers cited 15 cases of identification problems for the elderly, four cases for the youth, three for women and a single instance for the PWDs. Figure 3.31 shows that biometric identification of voters was a problem in 95 stations reviewed. Voters' names were missing in 13 stations but voters also went to the wrong stations in seven (7) instances.

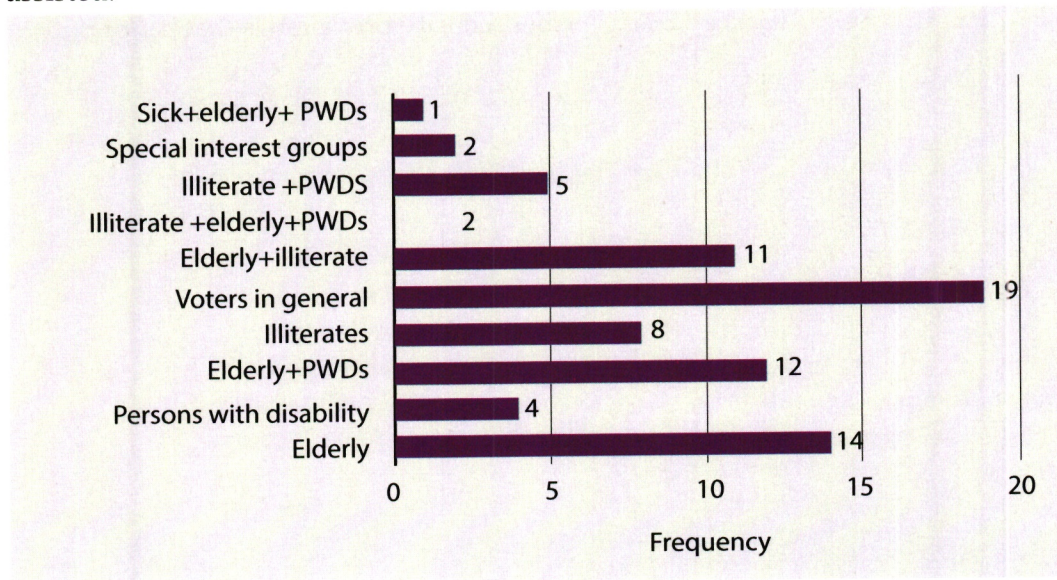
**Figure 3.31:**  
Problems  
with the  
identification  
of voters



<sup>28</sup> It is unclear whether observers cited here stayed at a particular station for the whole day, leading to a finding that ballots in 14 percent of stations were not stamped. If so, then this should have raised the number of spoilt ballots.

Where there was more than one person in the polling booth, presumably this was because a voter was being assisted to mark their ballot papers. Figure 3.32 presents the different categories of individuals that observers reported having been assisted. The voter in general category was cited 19 times, while the elderly was cited 14 times. It is fair to say that special interest group elements dominated those assisted.

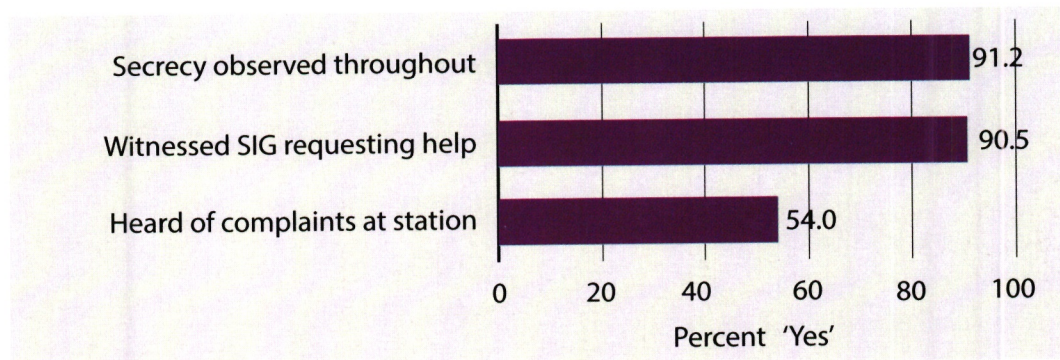
**Figure 3.32:**  
Categories of people receiving assistance in polling booths



### 3.6.4 Support and facilitation of voters

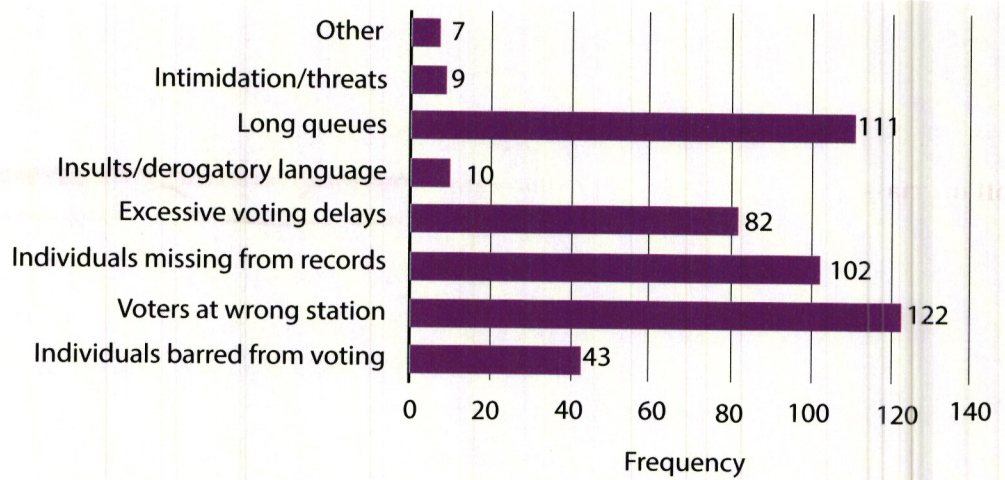
Among the observers, 54 percent heard of complaints in polling stations as reflected in Figure 3.33; but 90.5 percent of them also witnessed special interest groups asking for help with their ballot papers. About 90 percent of the observers also noted that secrecy was observed throughout in the stations reviewed.

**Figure 3.33:**  
Conduct at polling stations



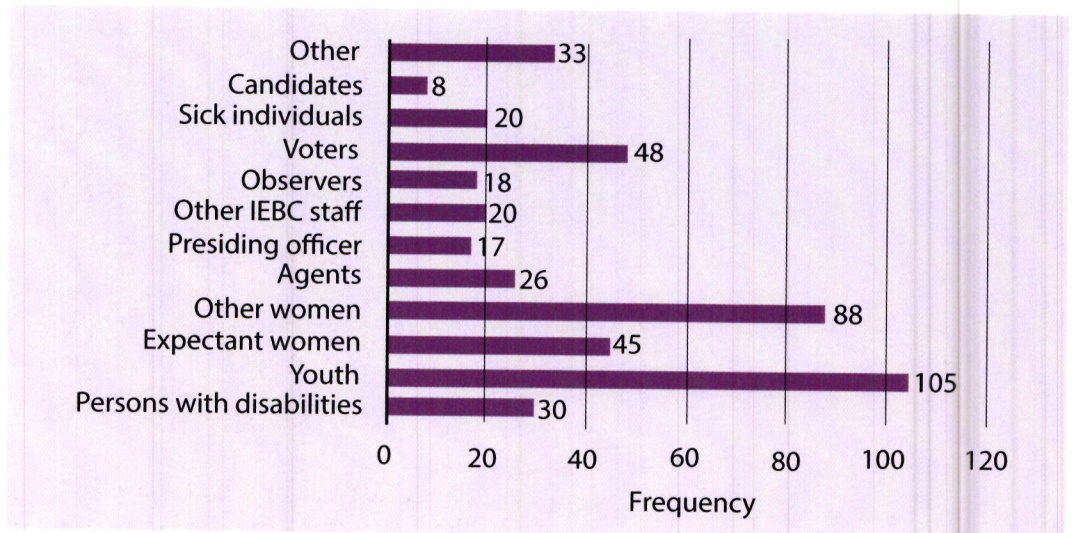
The most common complaint the observers heard at polling stations was 122 instances of voters being at the wrong station, as seen in Figure 3.34. Voters also complained of long queues (111), names missing from the voter registers (102), and excessive voting delays (82). Observers also cited complaints of individuals being barred from voting, without stating why such action was being taken.

**Figure 3.34:**  
Basis of  
complaints at  
polling stations



The observers identified the categories of complainants as reflected in Figure 3.35. Women, in general, accounted for the largest number of complainants (133); and observers further distinguished expectant mothers (45) from the rest of the women (88). The second largest group of complainants was the youth with 105 instances, some of whom were likely to be women. The IEBC staff and presiding officers raised 37 complaints, observers raised 18 and candidates eight.

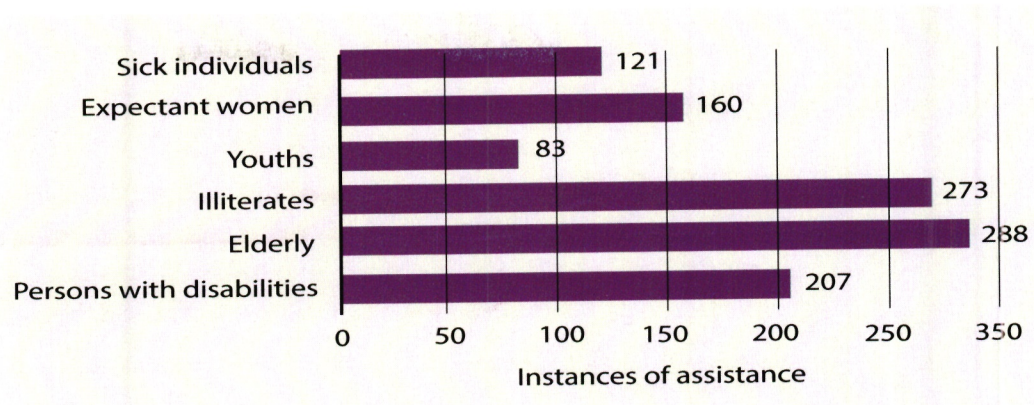
**Figure 3.35:**  
Categories of  
people with  
complaints



As noted in Figure 3.32, various people sought help from polling officials, with distribution of the special interest groups among them reflected in Figure 3.36. The elderly led the numbers of those receiving assistance with 288 instances, followed by illiterate voters (273)<sup>29</sup> and PWDs (207). There were 83 instances of youth seeking assistance which is likely to be an indictment on either the outreach or quality of civic education or both.

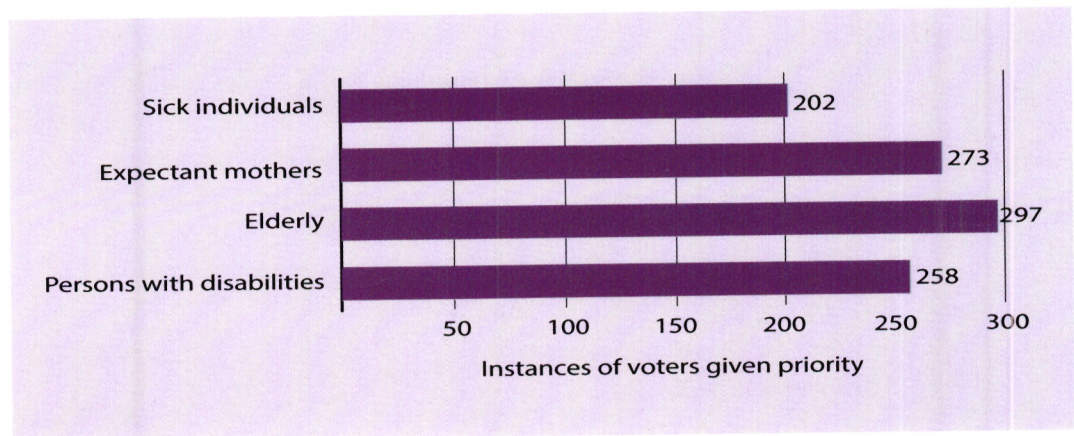
<sup>29</sup> Illiterate voters are more likely to be females and the elderly.

**Figure 3.36:**  
SIGs and sick voters requesting assistance from poll officials



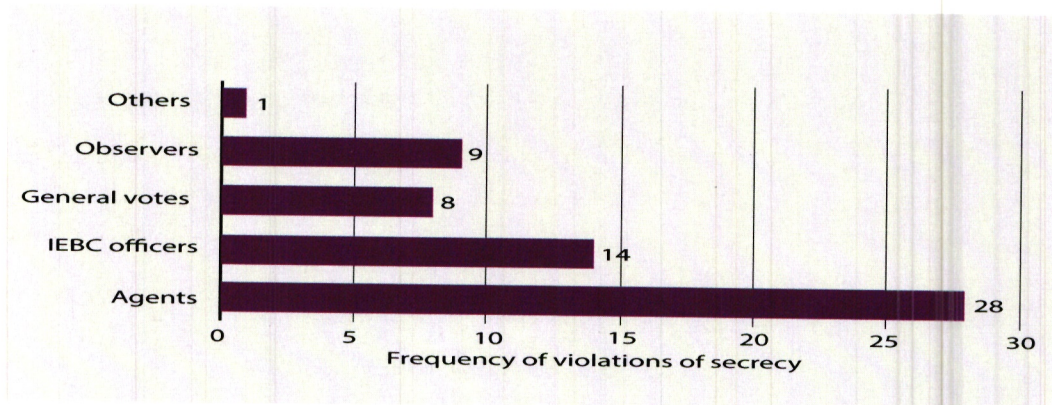
Poll officials were under instructions to give balloting priority to individuals who were indisposed in one way or another. Figure 3.37 shows which individuals received such privileges, with the elderly voters accounting for 297 instances, while expectant mothers and PWDs accounted respectively for 273 and 258. Individuals who were sick sought assistance (Figure 3.36) and it is, therefore, proper that they should have been given priority in voting, as shown in Figure 3.37.

**Figure 3.37:**  
Categories allowed to vote on a priority basis



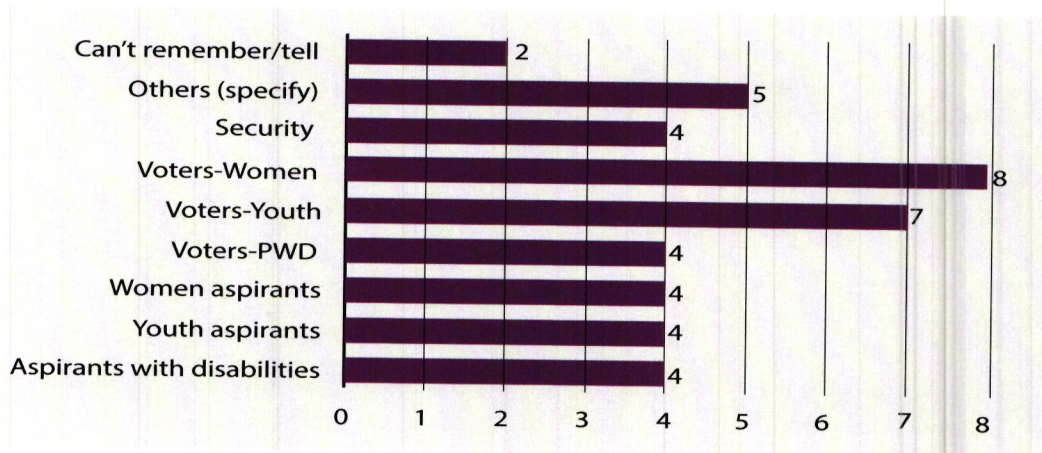
Notwithstanding the provisions for secret balloting, the need to assist certain categories of voters means that secrecy cannot be maintained for all votes cast. There were 28 instances in which agents violated secrecy, compared to 14 by IEBC officers, as reflected in Figure 3.38. While violations by poll officials and the general voters are expected, there were instances when election observers were adjudged guilty of such violations.

**Figure 3.38:**  
Violations of the secrecy of balloting



As a result of some of the irregularities mentioned above, some observers witnessed instances where individuals or groups complained to the presiding officer or submitted memoranda to the same official. As Figure 3.39 shows, women led with 34 instances of complaints or memoranda, followed by the elderly (26), youth (22) and PWDs (19).

**Figure 3.39:**  
Instances of complaints or memoranda to presiding officers

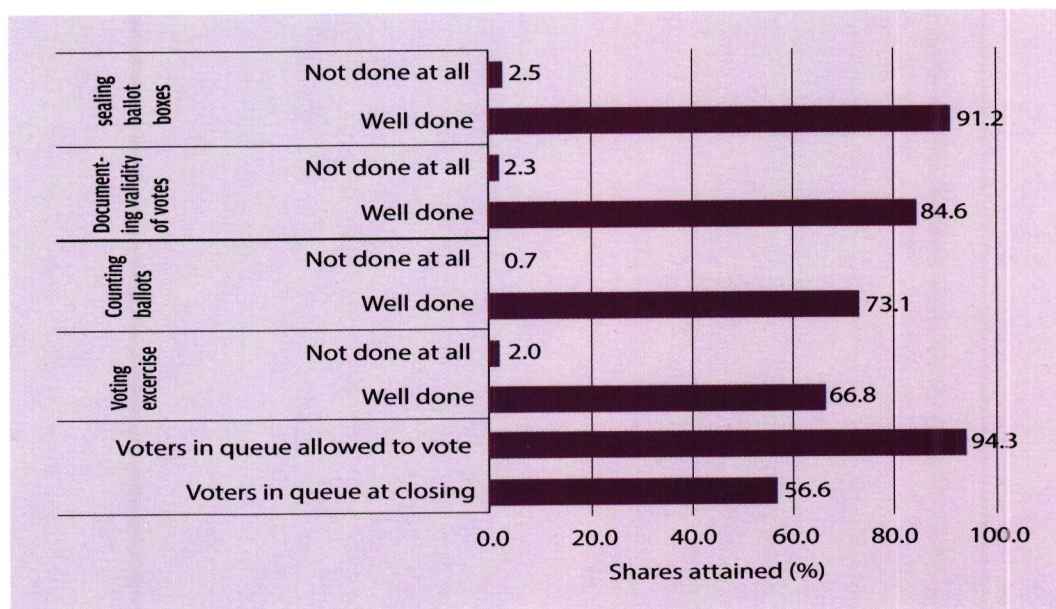


### 3.6.5 Polling station close out activities

By law, polling stations are required to close at 5.00pm but presiding officers are under instructions to allow all voters in the queues at closing time to cast their ballots. Technically, therefore, all stations should have closed at 5.00pm<sup>30</sup>, but the casting of votes would have continued well beyond this time. For one, 13.5 percent of the observers reported stations that had opened after 6.00am (Figure 3.22), meaning that voters would be denied the maximum time allowed by law if stations closed promptly at 5.00pm. Indeed, 56.6 percent of the observers noted that voters were still on the queue at the closing time, as shown in Figure 3.40. However, only 94.3 percent of the observers reported that such voters were allowed to cast their ballots.

<sup>30</sup> The complaint at Figure 4.30 of finding a station closed could be an instance of closing before 5.00pm.

**Figure 3.40:**  
Poll station  
management  
of close out  
activities



Observers were asked to assess various aspects of poll closing activities on a scale of one to four for which Figure 3.40 only focuses on 'well done' and 'not done at all'<sup>31</sup>. For the voting exercise, 66.8 percent of the instances observed were well done, while two percent were not done at all<sup>32</sup>. The sealing of ballot boxes was well done in 91.2 percent of the instances observed and was not done at all in 2.5 percent of instances. For the counting of ballots, 73.1 percent was well done but the share of not done at all stood at under one percent. The respective scores for the documentation of valid and invalid votes were 84.6 percent and 2.3 percent.

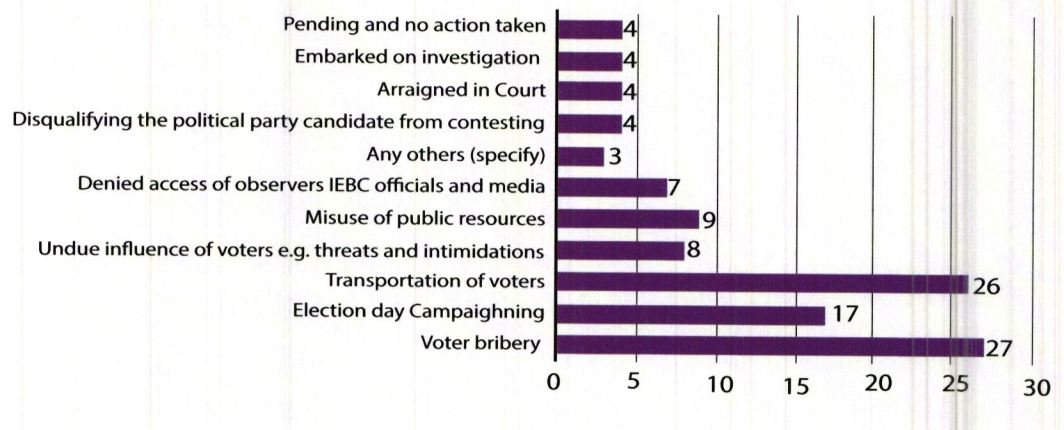
### 3.6.6 Violations of selected legal provisions and guidelines

Among the observers, 4.2 percent witnessed a total of 42 violence cases reported whose instigators are as reflected in Figure 3.41. Of the eight instances of violence instigated by voters, women were the surprising dominant category, followed by the seven instances instigated by youth. Various groups were responsible for four instances of violence each, among them, security agencies. The instigators of two instances of violence were not identified, while another five instances were unspecified. Of the nine violence incidents that respondents characterised, eight were physical violence, one was categorised as 'other' but no instances of psychological or gender-based violence were identified.

<sup>31</sup> The comprehensive scale was 1=not done at all; 2=poorly done; 3=somewhat well done; and 4=well done.

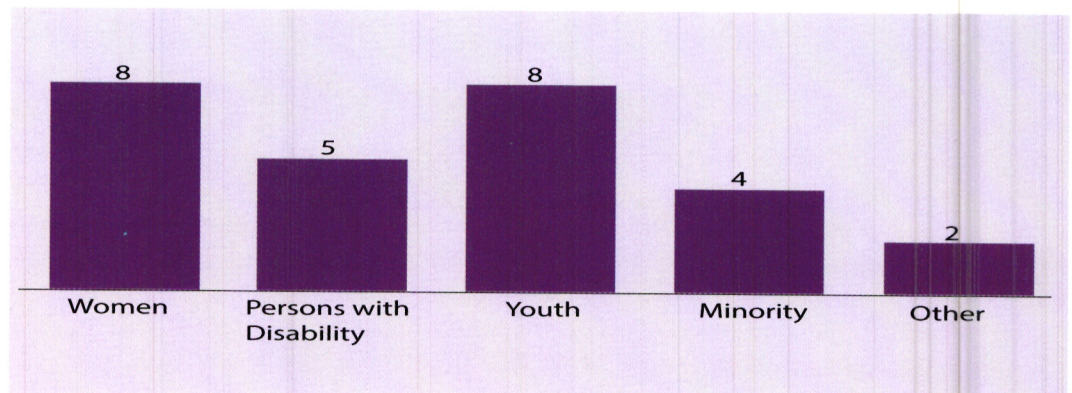
<sup>32</sup> It is unclear what 'not done at all' means, as it surely cannot mean that there was no poll closing activities. The same query applies to the other 'not done at all' provisions.

**Figure 3.41:**  
Instigators of violence



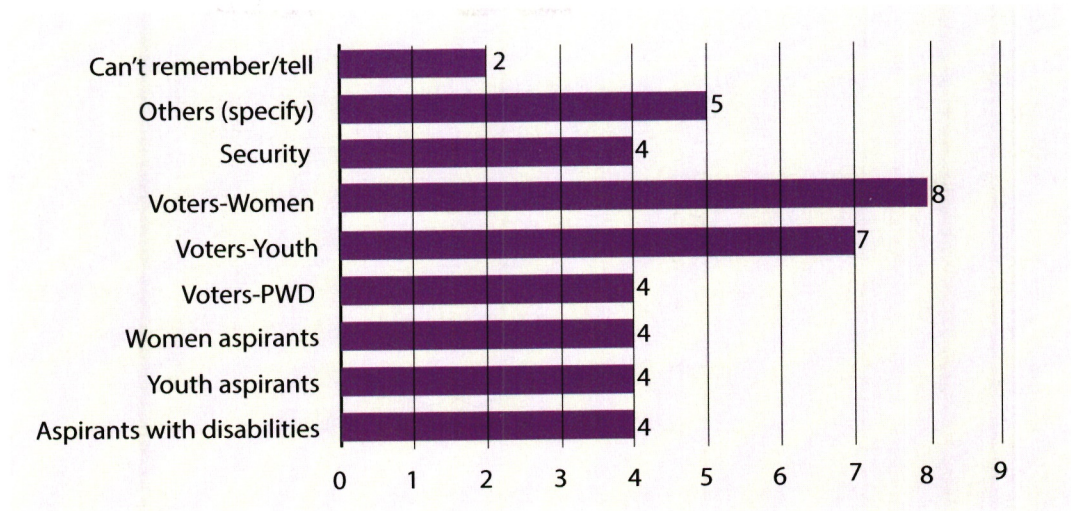
Observers identified 27 victims of the violence reported, distributed as seen in Figure 3.42. Women and youth were the main victims of the violence with eight instances each. Also targeted were PWDs (5) and minorities (4). Other data show that violence targeting women was most widely distributed in Bomet and Kiambu counties, and an incident each in Busia, Homa Bay, Kisumu and Migori counties. Bomet accounted for four instances targeting the youth; and the county accounted for just over half of all the 27 instances reported.

**Figure 3.42:**  
Victims of violence



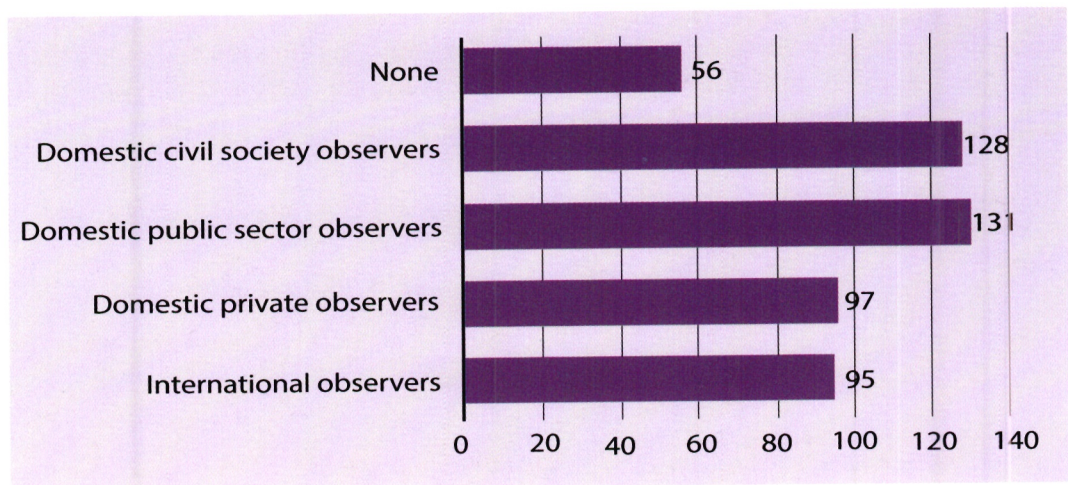
Of a group of 16 security incidents discussed by the observers, security officers were called in only six (6) instances. However, the observers provided the actions taken by the security officers for 19 violence incidents, as seen in Figure 3.43. In five (5) incidents, they arrested the perpetrators, while in four (4) instances each, they respectively arraigned instigators in court and embarked on investigations. Other responses included reporting to IEBC peace committees.

**Figure 3.43:**  
Security response to violence incidents



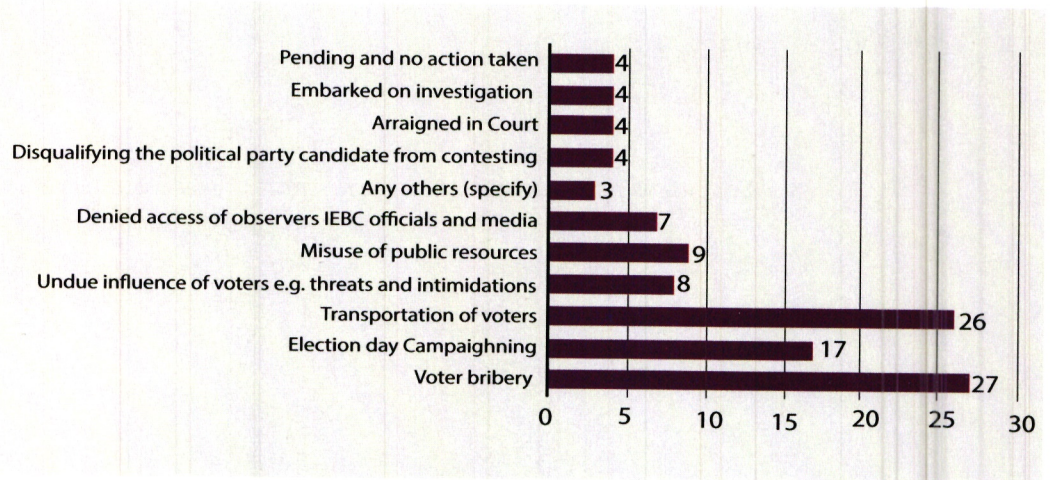
When 507 observers were asked about the presence of other observers and monitors at their stations, 56 of them said there were no others, as reflected in Figure 3.44. However, the dominant observers and monitors reported were the domestic public sector observers (131), followed the local civil society observers (128). Other observer groups included domestic private observers (97) and international private observers (95).

**Figure 3.44:**  
Non-NGEC observers and monitors



Observers were required to catalogue the frequency of various listed electoral malpractices at polling stations. As reflected in Table 3.45, they observed 27 instances of voter bribery and 26 of transportation of voters. Other malpractices included election-day campaigning (17), misuse of public resources (9), undue influencing of voters (8) and denial of access for observers (7) among others.

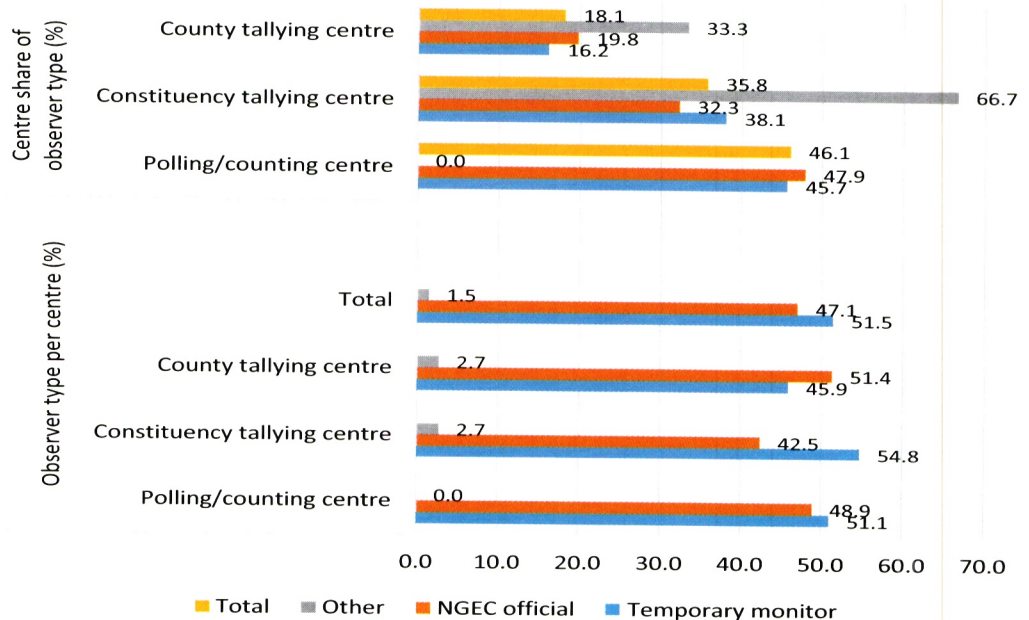
**Table 3.45:**  
Categories  
of electoral  
malpractices at  
polling centers



### 3.6.7 Post-polling monitoring

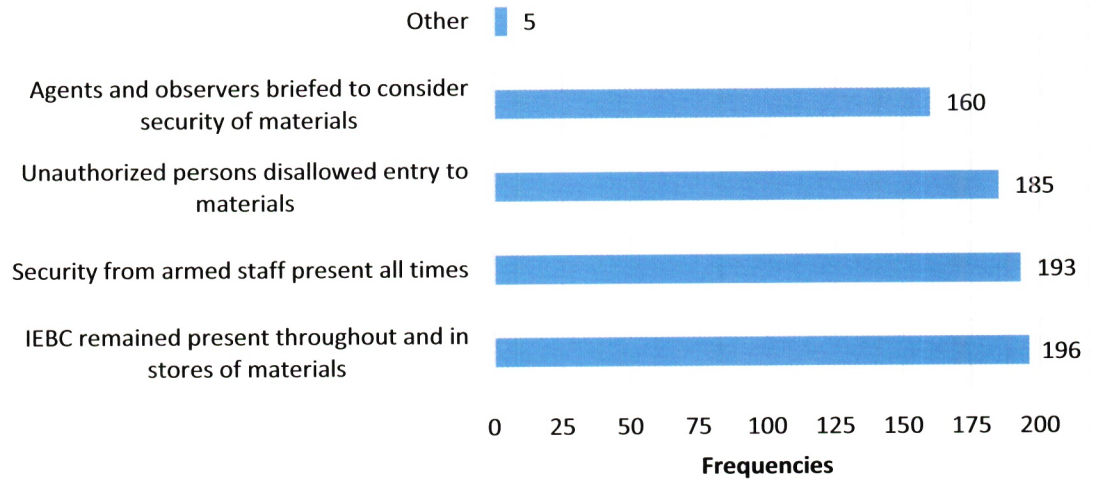
As noted above, election observers came from various public and private agencies whose distribution is shown in Figure 3.46. Overall, 51.5 percent of the observers were temporary monitors, while NGECE officials accounted for 47.1 percent, as seen in the lower portion of the chart. At polling stations covered, 51.1 percent of the observers were temporary monitors compared to 48.9 percent being NGECE officials. Temporary monitors also dominated the constituency tallying centres but NGECE officials controlled the county tallying centres (51.4% vs 45.9%). The upper portion of the chart shows the comparative centre share of the different observer types. The polling centres accounted for 45.7 percent of all temporary monitors while the constituency tallying centre used 38.1 percent. The distribution of NGECE officials was quite similar.

**Figure 3.46:** The  
distribution of  
observers and  
monitors across  
the electoral  
network



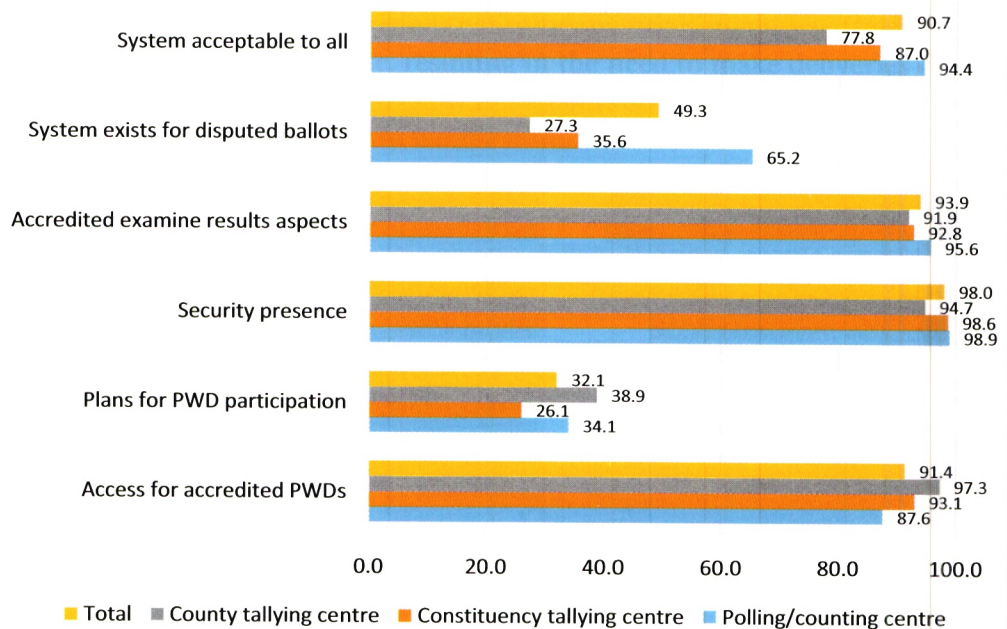
Observers were asked to identify the precautions instituted to ensure continued security throughout the elections; and their responses are reflected in Figure 3.47. The dominant observed intervention (26.5%) was an IEBC presence throughout, including in the materials stores. A marginally smaller share of observers (26.1%) noted armed security distributed across the polling stations, while a similar share of observers noticed that unauthorised persons were barred from entry into the stores. In 160 cases, poll agents and observers were also integrated as part of the security network.

**Figure 3.47:**  
Interventions  
instituted to  
ensure security  
throughout the  
elections



Observers assessed whether polling or tallying centres were accessible to accredited PWDs, with 91.4 percent of them finding satisfactory access, as reflected in Figure 3.48. The county tallying centres were most accessible (97.3%), while the polling/county centres were least accessible (87.6%). Further, the law requires presiding and returning officers to facilitate effective participation of special interest groups, such as those with hearing and visual impairments in the counting/tallying and verification of votes. The observers reported low compliance rates over such facilitation, with the county polling stations leading at 38.9 percent while the constituency level had the lowest rates (26.1%), as reflected in Figure 3.48.

**Figure 3.48:**  
Aspects of  
post-polling  
management

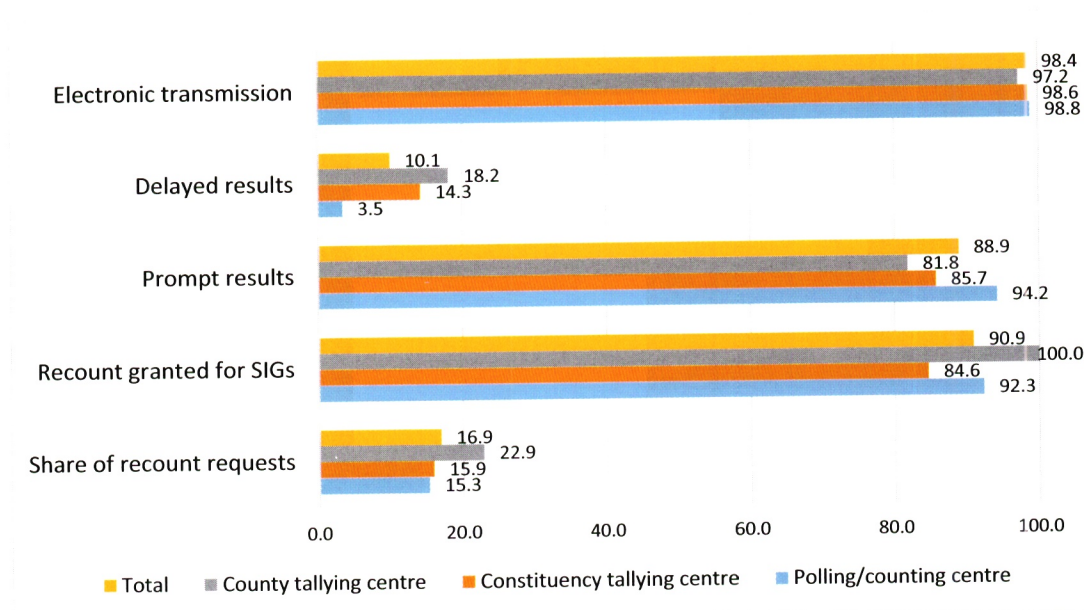


Poll managers were also required to provide access for accredited agents to various aspects of the on-goings of the station or centre. The observers reported that such access was high but incomplete, greatest at polling stations (98.9%), and lowest at county tallying centres (91.9%), as seen in Figure 3.48. Where accredited persons were not allowed to examine or confirm aspects of the results, this was the case for three instances of sealing boxes, eight instances of filling in forms, seven instances of submitting results and another two unspecified instances.

The likelihood of tallying disputes dictates the need for management systems yet the observers found a very weak framework with 62.5 percent acknowledging the same at polling stations compared to a mere 27.3 percent at county tallying centres. Yet, even these few existing dispute resolution frameworks were not universally accepted: while their acceptance rate at the polling station level stood at a high 94.4 percent and that of the county level at 77.8 percent.

As reflected in Figure 3.49, disputed initial results led to requests for a recount at a comparatively high 22.9 percent at the county tallying centres compared to 15.3 percent at the polling/counting centres. The Commission was particularly interested in whether the accredited officials representing any special interest groups – women, the youth, PWDs and minorities – petitioned and got a positive response. Figure 3.49 shows high acquiescence to such requests, ranging between 100 percent at the county level and 84.6 percent at the constituency level.

**Figure 3.49:**  
Further aspects  
of post-polling  
conduct

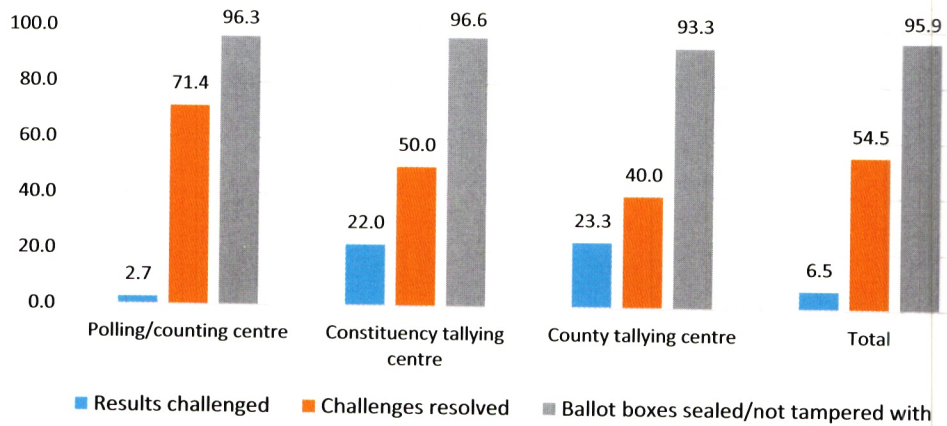


### 3.6.8 Challenging results

Figure 3.49 also shows that only 88.9 percent of the observers reported the immediate announcement of results. Immediate declaration stood at 94.2 percent for the polling/counting centre, compared to only 81.8 percent at county tallying centres. The observers reported a single instance each for the polling and constituency centres in which the results were not publicly announced. On average, delayed results stood at 10.1 percent with the greatest at the county tallying centres (18.2%) and lowest at the polling centres (3.5%). The overall rate of the electronic transmission of results stood at 98.4 percent, a rate only marginally undermined by the county level's 97.2 percent.

The election observers reported instances where the results were challenged, as seen in Figure 3.50. The overall challenge rate was 6.5 percent, with the highest rates being the 23.3 percent for the county tallying centres and 22 percent for the constituency tallying centres. The challenges to the results by special interest groups numbered nine (9), two (2) each for PWDs and female candidates and three for minority candidates. The observers noted that only about one-half of the overall challenges (54.5%) were resolved, with the highest rates being at polling stations (71.4%) while the lowest rate of 40 percent was at the constituency centres, as seen in the Figure 3.50. Nonetheless, compliance with the requirement to seal and not tamper with ballot boxes and other electoral material was a high 95.9 percent, with largely comparable rates across the polling hierarchy.

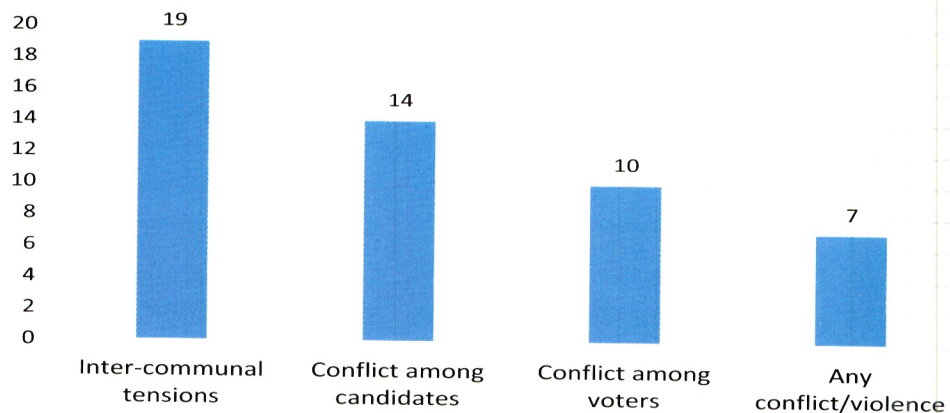
**Figure 3.50:**  
Management  
of challenges to  
results



### 3.6.9 Post-tallying activities

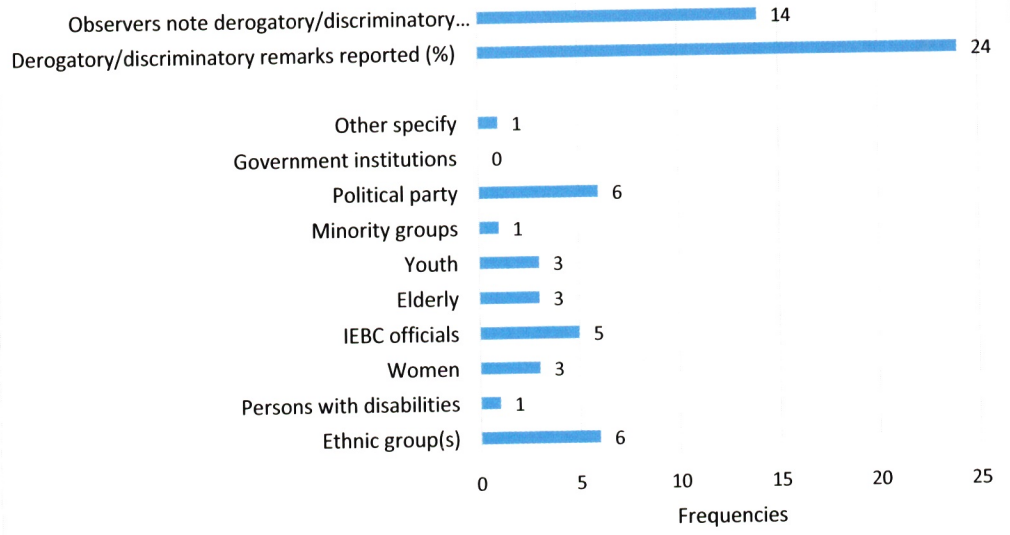
The observers were asked to report any incidents of conflict or violence in the post-tallying context; and some of their findings are reflected in Figure 3.51. The largest number of observers (19) listed inter-communal tensions, with conflicts among candidates and voters following closely.

**Figure 3.51:**  
Instances  
of observed  
conflict and/or  
violence



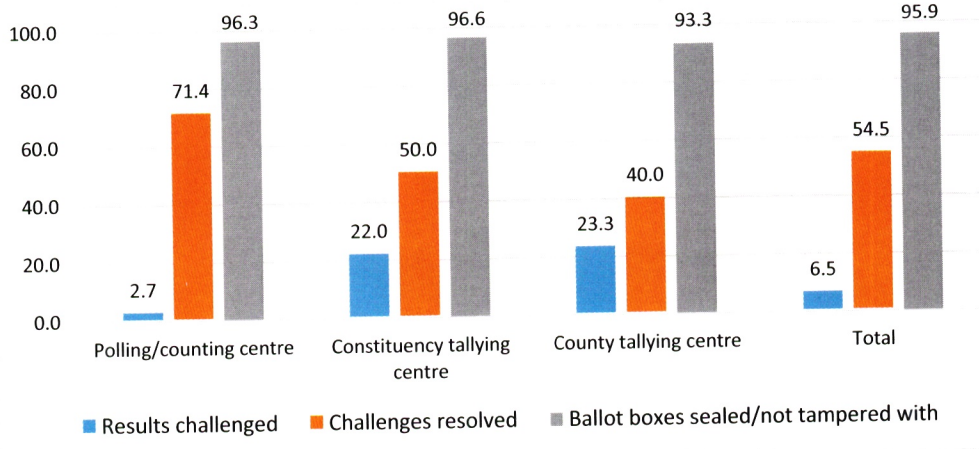
Among the observers, 14 percent of those reporting on post-poll issues noted people making derogatory and/or discriminatory remarks, as reflected in Figure 3.52. Of those making such remarks, only 24 percent were reported to the authorities. Ethnic groups and political parties bore the brunt of the derogatory and/or discriminatory remarks, as reflected in the figure below. While IEBC was also specially targeted, no observer reported any instance in which such remarks were directed at the Government.

**Figure 3.52:**  
Managing derogatory and discriminatory remarks



Among the observers, about 42 percent noted attempts by individuals and organisations to coordinate post-election activities, as seen in Figure 3.53. Among the most prevalent coordinators were commissions and security agencies (with 42 nominations each) as well as faith, community-based and non-governmental organisations. Individuals, civilians and volunteers got 19 mentions.

**Figure 3.53:**  
Individuals and organisations coordinating post-election activities



# CHAPTER FOUR

## ELABORATION OF FINDINGS

The introduction to the previous chapter rationalised the detailed – even if seemingly repetitive – presentation of the findings of the monitors and observers, in line with the information sought by the monitoring tools. Additionally, however, such detail is favourable for demanding and enhancing remedial reforms for improved SIG equality, inclusion and participation. The findings suggest that in most respects of the electoral cycle, inadequate attention has been paid to equality, inclusion and participation of the special interest groups, as summarised below.

While the Political Parties Act (PPA) encourages special interest groups inclusion, such as in ring-fencing participation funds, a review of 20 political party constitutions and records indicated they do not even recognise diversity. Although some parties appreciate that financial constraints might hamper special interest group membership, there is little support for their participation in party administration. Consequently, special interest groups who are often characterised by fundamental socio-economic drawbacks, suffer pronounced disadvantage within political parties including in the largely poorly managed political party primaries, risk of violence and weak recourse to dispute resolution frameworks.

While IEBC's outlays for the 2017 voter verification activities were good, special interest groups were engaged as managers but few of them bothered to verify their registration status, in a context in which special interest group nominees in respective parties invariably fell below 10 percent of total candidates. Additionally, special interest group candidates were largely unwilling to discuss their campaign financing, the outstanding revelation of the partial analysis of election financing showing that a PWD candidate needs seven (7) times the resources of the average candidate.

Campaign venues were friendly in most areas, with some audience conveniences and special interest groups attendance was good, especially for women and youth. Modest violence was instigated primarily by the youth, and there were some illegalities, such as bribery. The media were in attendance, but largely ignored special interest groups.

As with the verification centres, the observers adjudged IEBC's polling stations to be well planned and equipped and therefore accessible for special interest groups. However, among the complaints they noted were the lack of access ramps, overcrowding, names missing from registers, compromised finger-print capture and excessively high polling booth tables. The main complainants were the women and youth as well as other special interest groups. However, poll officials did provide assistance to var-

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<sup>33</sup> Ongaro (2017) uses 'key population' to refer to all other people who are not SIGs. Might the term itself underscore exclusion from the rest of the population?

ious special interest group categories. Asked to evaluate the overall performance of the election process, the verdict of the observers and monitors was that voting, counting, documenting ballots and the sealing of ballot boxes were all largely 'well done'.

From the foregoing, the overall reality of Kenyan special interest groups in the electoral context is one of relative exclusion and institutionalised discrimination, notwithstanding the well-done conclusions of the observers and monitors. The empirical findings above show that at every stage of the democratic election process, special interest groups are disadvantaged. However, since the observers were not asked to compare their circumstances with those of the 'key' population<sup>33</sup>, it is not possible to determine the extent of the institutionalisation of the special interest groups' relative disadvantage.

It is important for the design of remedial interventions towards greater inclusion, to distinguish whether special interest groups are the victims of the general limitations of political parties, Office of the Registrar of Political Parties, IEBC and other election-focused agencies, or are exclusive victims of the whole society's perception of them as 'others'. Put differently, for example, are the affirmative action measures of the presently female-led National Rainbow Alliance Coalition-Kenya and Labour Party of Kenya permanent or will they change if these parties acquire male leadership? Equally, would the accession of women or other special interest group leadership in the other parties change the contexts that special interest groups currently face? It becomes evident that the 'problem' is in both the election-focused agencies and in the general population, making opportune the Commission's nationwide mandate on inclusion and non-discrimination.

Kenya's history is full of efforts – often *ad hoc*, individualised and largely non-government – to uphold the rights of all Kenyan citizens, including those citizens that the Constitution characterises as 'Special Interest Groups'<sup>34</sup>. Chapter 5 of the independence constitution had focused on human rights, largely civic and political rights, with little attention to the 'second generation' socio-economic and cultural rights, let alone the 'third generation' global and environmental rights.

Indeed, Kenya ascended to independence in 1963 under the umbrella of many international conventions championing the very rights that in practice it denied its people, or merely paid lip-service to. Thus while the nationalist struggle championed universal suffrage, independent Kenya worked against the right to political participation as seen in the years of *de facto* and *de jure* single party rule through arbitrary detention of politicians without trial and stage-managed imprisonments of perceived dissent-

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34 The values and principles are worth repeating verbatim: "(a) patriotism, national unity, sharing and devolution of power, the rule of law, democracy and participation of the people; (b) human dignity, equity, social justice, inclusiveness, equality, human rights, non-discrimination and protection of the marginalised; (c) good governance, integrity, transparency and accountability; and (d) sustainable development."

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ers. A major achievement of the framers of the people-driven Constitution that was promulgated in 2010, therefore, was to 'put in the face' of the Government and citizens, principles and values that should enable the realisation of these rights hitherto locked up in the cupboards of disenfranchisement.

Thus, Article 1 of the Constitution declares that 'Kenyan sovereignty belongs to the country's 40 million-odd people – including its special interest groups – who exercise such sovereignty directly or through democratically elected representatives. To this end, Article 10 provides the National Values and Principles of Governance<sup>36</sup>, many of which are fundamental for the direct or indirect realisation of the said sovereignty and they "bind all State organs and officers as well as public officers and all persons" in everyday life. For the avoidance of ambiguity, Article 232 translates those general values and principles of Article 10 into public service values and principles, which apply for "all State organs in both levels of government, and all State corporations. Further, Article 27 declares that: "(1) Every person is equal before the law and has the right to equal protection and equal benefit of the law; and that: (2) Equality includes the full and equal enjoyment of all rights and fundamental freedoms." Institutions such as the Office of the Registrar of Political Parties and IEBC are, therefore, obliged to promote participation, which must be democratic, inclusive, transparent and accountable, non-discriminatory, and protective of the marginalised, among other principles and values.

That anything could impede the participation of special interest groups in the democratic process and usurp their fundamental constitutional rights, is the basis of NGECC's concern over the inclusion of, and non-discrimination against them in elections as managers, contestants, voters and mere spectators. To ensure its agenda, given the institutionalised nature of exclusion and discrimination, NGECC's approach must be at least two-pronged, one targeting the general population, and another the election-focused agencies. The significance of this is that the individuals who administer the election-focused agencies come from, and eventually return to, the general population. The values of inclusion and non-discrimination must, therefore, be internalised and practiced by all in everyday life if they are to be values underlying participation in democracy.

The discussion above suggests that the issue is much more difficult than merely returning to the findings of Chapter Three and mapping respective solutions to the individual issues or shortcomings identified by the observers and monitors. Thus for example, it needs no saying that parties should abide by Political Parties Act Regulations in developing membership records that enable a conclusive analysis of the status of special interest groups within parties and their various bodies.

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<sup>36</sup> They refer to Chapter Six of the Constitution, and to confirmation of good conduct, tax compliance, credit worthiness, etc.

<sup>37</sup> For example, individuals with pending integrity cases were cleared to contest electoral office in 2017, and have subsequently proceeded to hold key public offices.

Relatedly, parties must adhere to the legislated guidelines for their primaries if the management of Kenyan democracy is to be inclusive, transparent and accountable. Such obvious issues arise at every stage discussed above in the electoral process, with the problem being the failure of agencies and individuals to abide by the provisions of the various existing electoral frameworks. Issues of impunity and low integrity were the driving factors behind the Constitution's Chapter Six (6) on Leadership and Integrity.

Therein lies an intractable problem that is beyond the narrow realm of electoral management: how does Kenya instill the good governance of Articles 10 and 232, and of Chapter Six (6), among other provisions, into the fabric of its society? For example, all advertisements for senior public appointments hark to the integrity of applicants<sup>36</sup>; yet such requirements are either ignored or weakly adhered to in actual appointments<sup>37</sup>. Such weak adherence to standards sets the context in which managers in the private and public electoral domain ignore, or weakly adhere to, the constitutional and legislated provisions targeting both special interest groups and the general population. Among the provisions ignored include the two-thirds gender rule, the five (5) percent PWD share of public appointments and affirmative action through the Political Party Fund. It is difficult to see how to overlook such basics and hope to succeed in raising special interest groups inclusion as well as participation to the levels anticipated by the Constitution, policies and legislation.

The framers of the Constitution were quite aware of Kenya's integrity challenge, hence the incorporation of Chapter Six on National Leadership and Integrity, which has spawned the Leadership and Integrity Act. That awareness also led to the multi-agency approach to the problem, reflected in the embedding in the Constitution and related legislation of various associated agencies which must work synergistically for effectiveness. These include some of the Constitutional Commissions, independent offices and legislated agencies. Alongside NGEC, the others include IEBC, Office of the Registrar of Political Parties, Parliament, Kenya National Commission on Human Rights (KNCHR), National Cohesion and Integration Commission (NCIC), National Police Service Commission (NPSC), Ethics and Anti-Corruption Commission (EACC), and National Council for Persons with Disabilities (NCPWD).

Various government ministries and departments also have significant contributions to make in the realm, such as Office of the Attorney General as well as ministries of Interior and Co-ordination of National Government, Education as well as Youth and Gender Affairs.

The involvement of the Kenya National Bureau of Statistics (KNBS) and the National Registration Bureau (NRB) would also be critical for monitoring the emerging profile of the special interest groups and where they are in the population. As reflected in NGEC's consultations over the election observer monitoring tool (see Chapter Two), non-state actors are indispensable in these endeavours.

# CHAPTER FIVE

## RECOMMENDATIONS

**E**ach of the charts and tables of Chapter Three is capable of generating one or more substantive recommendations. However, the overriding recommendation of this report must have a nationwide focus, after which it will be appropriate to develop specific recommendations for implementation.

The National and County levels of government must espouse the exhortation of Article 1 of the Constitution that sovereignty belongs to all Kenyans inclusively and non-discriminatorily, and may be enjoyed directly or through democratic delegation. This ideal is furthered by Article 27 on equality and freedom from discrimination. Successful investment in these two and related realms should address exclusion and discrimination in all spheres including that of inclusive democratic elections. The obligation extends to every individual Kenyan as well as all public and private institutions and agencies, as envisaged for the application of Article 10's National Values and Principles of Governance.

A report such as this one on the findings of observers and monitors of the August 8, 2017 General Election, cannot provide very specific time-bound and resourced recommendations. This is because the underlying problem discussed at the end of Chapter Three requires extensive collaboration between public and private entities whose current operations are bound by pre-existing strategic plans and related resources. The willingness and ability of such private and public agencies to review their on-going plans and related resources will vary widely, including in terms of timeframes.

Ideally, therefore, a validation workshop for this report should be a widely consulted multi-agency exercise, that develops sustainable strategies and work plans based on the findings reported in Chapter Three. Such a consultation would integrate the pertinent findings of the various election observers and monitoring agencies. Consequently, this report closes with general recommendations to which public agencies will be assigned based on their core mandates. However, as was seen with NGECC's consultations over its observation and monitoring tools, non-state stakeholders have a critical role to play in any such deliberations, and the only reason for not listing them is their very large numbers.

The Constitution is an enduring document. However, the numerous petitions surrounding the outcomes of the 2017 General Election suggest the need to continually review policy and legislative frameworks that govern elections for their relevance to emerging national and sub-national issues. However, the issues relating specifically to the findings and conclusions of Chapters Three and Four include the following:

## Special interest groups and party politics

■ Political parties need to take advantage of the software provided by the Office of the Registrar of Political Parties (ORPP), to improve their membership records by incorporating disaggregated categories that enable analysis of the status of special interest groups.

**Responsibility: Political parties and Office of the Registrar of Political Parties.** Parties should review their constitutions and election rules and institutions to ensure compliance with emerging electoral policies and legislation. This should extend to reviewing activity timetables/cycle, scope for special interest groups' participation at all levels of party activities (office holders; general members; candidates; dispute resolvers; etc.), as well as efficiency of internal dispute resolution frameworks. It should also extend to issues surrounding the adherence to fair calendars of activities. The involvement of agencies, such as the NCPWD and KNCHR, is important for standards.

**Responsibility: Political parties, ORPP, IEBC, NGEC, NCIC, NCPWD and KNCHR**

■ Political parties should review their fees and related requirements to reflect the financial capabilities of the various groups in society that might be interested in using them as a vehicle to democratic participation.

**Responsibility: Political parties, ORPP, NGEC, NCPWD and KNBS**

■ Stakeholders should move to curtail party-hopping which deters the early conduct of primaries. Time-frames should be declared within which prospective candidates may not change parties, especially in a General Election year.

**Responsibility: ORPP, Parliament, IEBC; and Political parties**

## Voter verification

■ IEBC should deliver its civic and voter education role to enhance enrolment and continue to invest in efficient, cost-effective election management approaches through developing a realistic electoral cycle calendar that realises continuous registration and verification. Consequently, it should engage other stakeholders in championing the efficient nationwide issuance of national identity cards.

**Responsibility: IEBC, ORPP and NRB**

## Campaign financing

■ The possession of excessive campaign financing means by some candidates enables bribery and other corrupt practices leading to tensions and/or violence. This not only undermines democracy but also creates insurmountable impediments for special interest groups. Consequently, the Attorney General should liaise with Office of the Registrar of Political Parties (ORPP) and IEBC to put the suspended legislation of electoral campaign financing into force. To this end, they should develop effective means of monitoring candidates' financing levels.

■ With effective financing frameworks in place, Office of the Registrar of Political Parties should be in a position to monitor the extent to which political parties use their shares of the

Political Parties Fund to support special interest groups in politics.

**Responsibility: Attorney General, ORPP, IEBC, Political parties and Parliament.**

■ Political parties should review their membership and participation fees, including the dispute petition fees, to enable more special interest groups to come on board.

**Responsibility: Political parties, ORPP and NGE**

### Campaign activities

■ The timely release of campaign activity calendars by individuals and parties will allow special interest groups to prepare better their activities around the same, while the local authorities, media, security providers and institutions like the NCIC will also plan accordingly.

**Responsibility: Prospective candidates, political parties, ORPP, IEBC, security, media, NCIC and sub-national security networks**

■ Firm attention to violations of electoral rules and regulation will enhance the diligent adherence to election frameworks. Consequently, the various enforcement agencies, including the Director of Public Prosecutions (DPP) must play their roles decisively, otherwise impunity might undermine the context.

**Responsibility: ORPP, IEBC, NCIC, NGE, KNCHR, political parties, security, and sub-national security networks**

■ Ensure the availability of facilities that enable special interest group participation such as translators for minorities, sign language interpreters and local language publicity materials among other things. Also ensure adequate security.

**Responsibility: Political parties, candidates, local authorities, security, NGE and KNCHR**

### Voting

■ Ensure recruitment opportunities for special interest groups as election managers among other positions

**Responsibility: IEBC, NGE, NCPWD and KNCHR**

■ Ensure the physical and non-physical quality of polling stations and tallying centers are availed on time to enable special interest groups participation. The elements include aspects of accessibility, space, comfort (queues and waiting time), demarcation, security, etc. Also ensure availability of a variety of aids that enable special interest groups voting, such as IEBC staff, party agents, sign language interpreters, directions' signs or assistants, etc. Additionally, IEBC should ensure timely availability of all aspects of polling materials, including adequate numbers of well-trained officials.

**Responsibility: IEBC, political parties, security, polling station host, NGE, NCPWD, KNCHR as well as local and international observers.**

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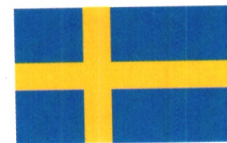
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